

Exhibit DD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES)
AND EXCHANGE COMMISSION,)
)
Plaintiff,) Civil No.
) 1:19-cv-05244
v.)
)
KIK INTERACTIVE INC.,)
)
Defendant.)
_____)

VIDEOTAPED DEPOSITION OF JAMES WEATHERMAN

9:59 a.m.

January 7, 2020

Taken at:

SEC Salt Lake City Regional Office
351 S. West Temple Street, Suite 6.100
Salt Lake City, Utah 84101

Reporter:
Heidi Hunter, RPR, CCR
JOB No. 200107CCT

A P P E A R A N C E S

FOR THE PLAINTIFF:

Stephan Schlegelmilch, Esq.
U.S. Securities and Exchange Commission
Attorneys at Law
100 F. Street, N.E.
Washington, DC 20549
202.551.4935
SchlegelmilchS@sec.gov

FOR THE DEFENDANT:

Jenna Bailey, Esq.
Cooley, LLP
Attorneys at Law
3175 Hanover Street
Palo Alto, CA 94394
650.843.5000
Jbailey@cooley.com

FOR THE WITNESS

Neil T. Smith, Esq.
K&L Gates, LLP
Attorneys at Law
One Lincoln Street
Boston, MA 02111
617.261.3180
Neil.smith@klgates.com

I N D E X

| | PAGE |
|----------------------------------|------|
| James Weatherman | |
| Examination by Mr. Schlegelmilch | 6 |
| Examination by Mr. Smith | 120 |

E X H I B I T S

| NO. | DESCRIPTION | PAGE |
|-------------|---|------|
| Exhibit 201 | Jay Weatherman deposition subpoena | 9 |
| Exhibit 202 | Letter dated 12/10/19 from Neil Smith; Re: SEC v. Kik Interactive, inc., S.D.N.Y. Case No. 19-cv-5244 (AKH) | 13 |
| Exhibit 203 | Email dated 12/24/19 from Neil Smith; subj: Weatherman | 14 |
| Exhibit 204 | Moose Landing LLC About Us | 21 |
| Exhibit 205 | KinFit app description | 44 |
| Exhibit 206 | Kin: The Reader's Digest Version | 45 |
| Exhibit 207 | Laddering into Kin: How to beat the price swings | 60 |
| Exhibit 208 | KinFit Hiker App Proposal | 63 |
| Exhibit 209 | Email dated 5/7/19 from Alex Cohen; Re: Go Live Milestone Reached - Kin Developer Program | 68 |
| Exhibit 210 | Email dated 5/26/19 from Moose Weatherman; Re: Kinfit and Kinnovation | 70 |
| Exhibit 211 | Email dated 6/6/19 from Hadar Landau; Re: Congratulations | 72 |

| | | | |
|----|-------------|-----------------------------------|-----|
| 1 | Exhibit 212 | Email chain, first of which dated | 73 |
| 2 | | 6/17/19 from Hadar Landau; Re: | |
| 3 | | Kinfit - 1st payment | |
| 4 | Exhibit 213 | Email dated 8/5/19 from Hadar | 73 |
| 5 | | Landau; Re: 28/7 - 3/8 Tourism | |
| 6 | | payment - KinFit | |
| 7 | Exhibit 214 | Email dated 11/22/19 from Kevin | 75 |
| 8 | | Ricoy; Re: KRE Payout (Nov 3-9) | |
| 9 | Exhibit 215 | PM Convo with Kevin Rickoy | 79 |
| 10 | Exhibit 216 | Reddit PM Convo with Yoel Rivlis | 82 |
| 11 | Exhibit 217 | Private Message conversation with | 89 |
| 12 | | Ted Livingston on Reddit | |
| 13 | Exhibit 218 | Hackermoon piece on Kik vs SEC | 98 |
| 14 | Exhibit 219 | Hiker2mtn Reddit post | 104 |
| 15 | Exhibit 220 | Reddit thread | 108 |
| 16 | Exhibit 221 | Reddit thread | 112 |
| 17 | Exhibit 222 | Twitter post to Tylerwinklevoss & | 113 |
| 18 | | Cameron Winklevoss | |
| 19 | | | |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | | | |
| 24 | | | |
| 25 | | | |

P R O C E E D I N G S

VIDEOGRAPHER: We are now on the record at approximately 9:59 a.m. This is the videotaped deposition of James Weatherman, deponent in the matter of SEC verse Kik Interactive, Case Number 1:19-CV-05244.

This deposition is being held at SEC Salt Lake City Regional Office, 351 South West Temple Street, Suite 6100, Salt Lake City, Utah 84101. Today's date is Tuesday, January 7th, 2020. The time on the video monitor is approximately 10:00 a.m.

My name is Christopher Harsh, legal videographer for the day with Gradillas Court Reporting, located at 400 North Grand Boulevard, Suite 950, Glendale, California 91203.

Will all counsel and all present please identify themselves and then the court reporter will swear in the witness.

MR. SCHLEGELMILCH: Stephan Schlegelmilch for the SEC.

MS. BAILEY: Jenna Bailey on behalf of Kik.

MR. SMITH: Neil Smith of K&L Gates on behalf of the deponent, Mr. Weatherman.

THE WITNESS: James Weatherman, deponent.

COURT REPORTER: Okay. Raise your right hand,

1 please.

2 Do you solemnly swear or affirm the testimony
3 you're about to give is the truth, the whole truth, and
4 nothing but the truth?

5 THE WITNESS: I do.

6 EXAMINATION

7 BY MR. SCHLEGELMILCH:

8 Q Good morning, Mr. Weatherman. We met earlier
9 today. My name is Stephan Schlegelmilch. I'm with the
10 SEC.

11 Would you mind for the record stating your
12 full name and spelling your last name.

13 A James Alexander Weatherman, Junior,
14 W-E-A-T-H-E-R-M-A-N.

15 Q Would you mind providing your home address.

16 A 15705 Rosco Road, Alberton, Montana 59280.

17 Q Do you have a business address that's
18 different from your home address?

19 A Not at the moment.

20 Q And this morning Mr. Smith is representing
21 you; is that correct?

22 A Yes.

23 Q And the Cooley law firm is not representing
24 you?

25 A No.

1 Q Are you paying Mr. Smith's legal bills?

2 A No.

3 Q Who is?

4 A I'm not sure, but he was appointed for my
5 representation by Kik.

6 Q Okay. Have you ever been deposed before?

7 A Yes.

8 Q How many times?

9 A Just once.

10 Q Can you tell me a little bit about that matter
11 where you were deposed?

12 A I was involved in a car accident. I was in
13 the backseat of a taxi cab that got T-boned in New York
14 City and I got deposed as part of the process with that.

15 Q Everything about that sounds horrible.

16 A It was.

17 Q Well, I don't know whether they went over the
18 ground rules the last time you were deposed -- well, how
19 long ago was that?

20 A About a year.

21 Q Okay. Just for purposes of the record, just
22 so we can get a clean record here, there is a court
23 reporter sitting next to you and she's transcribing
24 everything that we say out loud.

25 So, as a result, in order to have a clear

1 record, we need to answer with a "yes" or a "no." Like,
2 headshakes or "uh-huhs" or "uh-uhs" don't really
3 translate well to the written record; is that okay?

4 A Yes.

5 Q And I need to let you finish your answer
6 before I ask the next question and you need to let me
7 finish my next question before you start answering; is
8 that okay?

9 A Yes.

10 Q And if you don't understand something that I
11 say or a question that I ask, just let me know and I'll
12 give you a better question, okay?

13 A Okay.

14 Q There's a fair amount of jargon in this case
15 and so if I'm misusing it or I'm using it in a way that
16 you don't follow, just let me know.

17 A Okay.

18 Q I said this before we went on the record, but
19 I tend to take a lot of breaks. I run out of steam. So
20 if you run out of steam or if you want a break, just let
21 me know and we'll go off the record. The only caveat
22 I'll make is that if there's a question pending, I'll
23 ask you to answer the question.

24 A Okay.

25 Q Are you taking any -- I know you have a cough

1 drop. Are you taking any other medication today that
2 would affect your memory?

3 A Nothing that would affect my memory, no.

4 Q Is there any reason that you couldn't give
5 full and complete testimony today?

6 A No.

7 Q Now, the SEC paid for your flight to Salt Lake
8 City today; is that correct?

9 A That's correct.

10 Q Are you receiving from the SEC any other
11 compensation for testifying today?

12 A No.

13 Q Are you receiving from anyone else any
14 compensation for testifying today?

15 A No.

16 Q Are you expecting to receive any compensation
17 for testifying today?

18 A No.

19 Q Are you expecting to receive any compensation
20 for testifying at trial?

21 A No.

22 Q Okay. Let me hand you what we will mark as
23 Exhibit 201.

24 (EXHIBIT 201 WAS MARKED.)

25 Q Have you seen this before?

1 A Yes.

2 Q This is the deposition -- or this is the
3 subpoena that you received for this deposition today; is
4 that correct?

5 A That is correct.

6 Q Do you see at the -- there's a section marked
7 "production" on the first page of the subpoena?

8 A I see it, yes.

9 Q And it identifies a number of materials that
10 we asked you to produce in advance of your deposition.

11 Do you see that?

12 A Yes, I do.

13 Q What steps did you -- well, let me ask a
14 better question: Did you take any steps to look for
15 material that was responsive to those requests?

16 A I did.

17 Q What steps did you take?

18 A I did a search of our paper records and of our
19 computer records of all emails, all communications with
20 Kik via all methods that I could identify that we might
21 have received or communicated with Kik.

22 Q Do you see the second item that was requested,
23 documents concerning the purchase of Kin and the
24 decision to purchase Kin. Do you see that?

25 A Yes.

1 Q And I may have just missed it, but I didn't
2 see any documentation about any purchase of Kin that
3 you've made.

4 Have you purchased any Kin?

5 A I have.

6 Q Can you tell me when you purchased Kin?

7 A I don't remember the exact dates and there
8 have been several. I don't have any documents relating
9 to it.

10 Q Okay.

11 A But I did -- I have purchased Kin on several
12 occasions.

13 Q Okay. Can you provide me with -- when was the
14 first time that you purchased Kin?

15 A Roughly it would be either late in the last
16 quarter of 2017 or early in the first quarter of 2018.
17 I believe it was late in the last quarter of 2017.

18 Q Okay. So between --

19 A Roughly December timeframe.

20 Q Okay. So 12/2017. Okay. And that's the
21 first time you purchased Kin?

22 A Yes.

23 Q What was the -- well, did you purchase it with
24 ETH or with fiat currency?

25 A Ether.

1 Q And how -- what was the approximate U.S.
2 dollar value of the ether that you used to purchase Kin?

3 A I would be guessing here. Approximately \$500.

4 Q And you said that you've made several
5 purchases since then?

6 A Yes.

7 Q Okay. Can you provide -- about how many
8 times? And I'm looking for an approximation, just sort
9 of an order of magnitude.

10 A Ten to 15 times.

11 Q Okay. And that's all since December of 2017?

12 A Yes.

13 Q Can you provide me with the -- and in those
14 instances, did you purchase with ether or with fiat
15 currency?

16 A In every instance -- in no instance did I
17 purchase with fiat currency. I always purchased with
18 either ether or bitcoin. Generally with ether.

19 Q Okay. And can you provide me with -- and,
20 again, I'm just asking for sort of a high level
21 approximation -- with the approximate -- at the time of
22 purchase the approximate U.S. dollar value of your
23 purchases of Kin?

24 A The total amount that I have purchased?

25 Q Yes, sir. Just an approximation.

1 A Between 25- and \$30,000.

2 Q And that's at the time of purchase?

3 A Yes. And that's a rough number.

4 Q No, I understand. I'm just trying to sort of
5 get an order of magnitude.

6 A Okay.

7 Q So, great. Okay. Now, one of the things we
8 asked in the subpoena as you can see in 201 was for you
9 to identify the social media handles that you use.

10 A Yes.

11 Q And I'm going to have this marked as
12 Exhibit 202.

13 (EXHIBIT 202 WAS MARKED.)

14 Q Have you seen this letter before?

15 A Yes.

16 Q This is a letter from Mr. Smith, your
17 attorney, to me dated December 10th, 2019.

18 A Yes.

19 Q And it identifies a number of social media
20 platforms and your user handle; is that correct?

21 A Yes.

22 Q To the best of your knowledge, are these
23 accurate?

24 A These are accurate. I believe there's a
25 Medium handle that's not mentioned here. I believe it's

1 Hiker2mtn but it could be gonuclearnavy. I'm not sure
2 which.

3 Q Okay. Well, let me -- let's mark as 203 an
4 email that I have.

5 (EXHIBIT 203 WAS MARKED.)

6 Q All right. Have you seen this email before?

7 A Yes.

8 Q Okay. And this is an email I received from
9 Mr. Smith, your attorney, on December the 24th of last
10 year.

11 A Okay.

12 Q And in this email he indicates that your
13 username for Medium is gonuclearnavy?

14 A Yes.

15 Q So does that -- is that accurate or do you
16 think that you also have another Medium handle?

17 A No, sir. I only have one. I just couldn't
18 remember which one I -- which named I used under it.

19 Q And forgive me if I've asked this before, but
20 for Facebook -- looking again at 202. For Facebook,
21 Instagram, Reddit, Twitter, and then Twitter -- it looks
22 like you have two Twitter accounts?

23 A Yes. One is for my app and one is my personal
24 account.

25 Q Okay. And the usernames are -- the user

1 handles are correct for those?

2 A Yes, sir.

3 Q And then gonuclearnavy for Medium?

4 A Correct.

5 Q Okay. Do you have any other social media
6 platform handles that you've used to talk about Kin or
7 Kik?

8 A No, sir.

9 Q Do you use the Kik messenger?

10 A No, I don't.

11 Q Have you ever used it?

12 A Yes.

13 Q When was the last time you used Kik messenger?

14 A It's been probably six months ago.

15 Q Okay. And when did you open a Kik messenger
16 account?

17 A Probably -- I would be guessing here -- two
18 years ago.

19 Q Well, I guess what I'm -- let me just sort of
20 get what I'm driving at. Was it before or after your
21 first purchase of Kin?

22 A After.

23 Q So it would have been after -- so you opened a
24 Kik messenger account after December 2017?

25 A Yes.

1 Q Okay. And did you open a Kik messenger
2 account in order to do something with your -- with the
3 Kin that you had purchased?

4 A Not per se. I opened a Kik messenger account
5 to explore the Kik messenger service and to learn more
6 about it.

7 Q Why was that?

8 A Because it was associated -- because of the
9 Kin cryptocurrency that we had bought. And my process
10 for deciding to purchase Kin cryptocurrency included a
11 lot of research, a lot of reading.

12 My understanding of Kik as a messenger service
13 before I became involved with the cryptocurrency was
14 that it was mostly younger people that were involved,
15 and it -- when I communicate with, say, my children, I
16 used some messaging services that -- that they use,
17 SnapChat, but -- and Kik was along those lines. I had
18 never actually used it for myself beforehand. But I was
19 interested in it because of its connection to Kin.

20 Q Okay. And you said the last time you used it
21 was about six months ago?

22 A That's an approximate time, yes.

23 Q Can you tell me -- what year were you born?
24 I'm just looking for a little bit of sort of
25 biographical information about you.

1 A 1965.

2 Q And where were you born, sir?

3 A North Carolina. Eden, North Carolina.

4 Q And did you grow up in North Carolina?

5 A I did.

6 Q And did you graduate from high school?

7 A I did.

8 Q And did you go to college?

9 A I did. Initially I went to Appalachian State.
10 Go Mountaineers.

11 Q I know Appalachian State because I'm from Ohio
12 and I know Appalachian State beat Michigan and that's a
13 good thing.

14 So you said you went there initially. Did you
15 graduate from there?

16 A I did not.

17 Q Okay. What happened after Appalachian State?

18 A I joined the Navy, enlisted in the Navy and
19 was able to get into the naval nuclear power program.

20 Q Okay. And about what year did you enlist in
21 the Navy?

22 A 1980 -- 1980 -- early '86, I believe. I'm
23 trying to remember if it's late '85 or early '86.

24 Q And if you were in the nuclear power program,
25 you were a submariner or submariner?

1 A I was a submariner, yes.

2 Q What vessels were you on?

3 A The U.S.S. San Juan, SSN-751.

4 Q How long did you serve?

5 A Approximately five and a half years.

6 Q And did you get an undergraduate degree while
7 you were in the Navy?

8 A I worked towards an undergraduate degree and
9 ended up having a problem with thyroid cancer and left
10 naval service.

11 Q Okay.

12 A A service-connected disability. And I ended
13 up finishing a degree once I got out.

14 Q Where did you finish your degree from?

15 A Florida Institute of Technology.

16 Q About what year was that?

17 A That I finished the degree?

18 Q Yes.

19 A It would be 1994, I believe.

20 Q Okay. What was your degree in?

21 A Aviation management.

22 Q Where is Florida Institute of Technology?

23 A Melbourne, Florida.

24 Q I have family that went to Emory Riddle.

25 A Okay.

1 Q So what did you do in 1994 after graduating
2 from college?

3 A I was a flight instructor. I owned an
4 airplane and I taught people how to flight it. The way
5 the process works is you build time and you put your
6 resume out and get hired by smaller airlines, you build
7 more time, and then you move up to a larger airline. I
8 did that process.

9 During the early '90s while I was going to
10 school, I also worked for Delta Airlines as a customer
11 service agent while going to school and teaching, flight
12 instructing, and I was --

13 Q Was this down in Florida?

14 A This was in Florida, yes.

15 Q Okay.

16 A And then fast forward through several jobs
17 with a number of airlines, I got hired by Delta in 1997
18 and I've been there ever since.

19 Q Okay. And you -- you started with -- how did
20 the process work at -- let me start over.

21 Starting in 1997, can you just -- I know that
22 you were currently flying intercontinental flights; is
23 that correct?

24 A Yes.

25 Q So can you just at a very high sort of resume

1 level walk me through your progression from 1997 to the
2 present with Delta.

3 A I was hired in late 1997 as a 727 flight
4 engineer and served Delta as a flight engineer for
5 approximately three and a half to four years, became a
6 co-pilot on the 737, went back to the 727 as a co-pilot,
7 and I was there for a number of years, then got hired as
8 a 767 co-pilot flying international routes. Did that
9 for a number of years. Became a captain for the first
10 time in 2012 as an MD-88 captain flying out of New York.

11 Q Okay.

12 A It's an narrow-body domestic aircraft.

13 Q Yeah. I was going to say, I think I've been
14 on one.

15 A Yeah, you wouldn't forget it if you had. It's
16 an interesting aircraft.

17 But I've worked my way up. After that I
18 became a 767 captain in Seattle for a number of years.
19 Because of my wife's health issues, we decided to leave.
20 We lived in Seattle at the time. We decided to leave
21 Seattle, so I bid off of the 767 as a captain to be a
22 co-pilot for more seniority out of Detroit on the airbus
23 A350. And that's where I'm at now.

24 Q Out of Detroit?

25 A Yes, sir.

1 Q And what's -- do you have, like, a standard
2 route?

3 A We bid for schedules every month so it
4 changes. But the reason for making that change and for
5 taking on that commute from Missoula to Detroit is
6 because of the seniority that allows me the flexibility
7 to bid the schedules that I'd like to have.

8 Q Okay. During a break I'd like to hear how you
9 make that work. It sounds very interesting.

10 A It's difficult.

11 Q Okay. Are you familiar with a company called
12 Moose Landing LLC?

13 A Yes.

14 Q What is Moose Landing LLC?

15 A It is a company that my wife and I started
16 when we began exploring the ability to build an app with
17 an idea that I had for building on the Kin blockchain.
18 We realized we needed to have a corporate structure in
19 order to protect ourselves and to -- as part of the
20 process for becoming a developer on the Apple system for
21 Apple smart phones, they want you to have a corporate
22 structure. So we went ahead and formed Moose Landing
23 and incorporated in Montana.

24 Q Let me mark -- this will be 204.

25 (EXHIBIT 204 WAS MARKED.)

1 Q Have you ever seen this before?

2 A Not in paper form, but, yes, I have.

3 Q This is a printout of the About Us page on
4 Moose Landing LLC's website?

5 A That's correct.

6 Q Did you write this?

7 A Not all of it by myself, but, yes, I had a
8 hand in writing it.

9 Q Who else helped you write it?

10 A My wife, Courtney, and our technical
11 developer, Luc.

12 Q That's Mr. Hendriks?

13 A Yes.

14 Q And he lives in Amsterdam?

15 A He does.

16 Q And if you look on the first page under
17 Our History, it says in the summer of 2018. Is that
18 about when Moose Landing sort of got off the ground?

19 A That's correct. That's when the idea for the
20 app came into my head.

21 MR. SCHLEGELMILCH: Why don't we go off the
22 record?

23 VIDEOGRAPHER: We are now off the record. The
24 time is approximately 9:22 a.m.

25 (Recess.)

1 VIDEOGRAPHER: We are back on the record. The
2 time is approximately 10:29 a.m.

3 Q (BY MR. SCHLEGELMILCH) When we left off we
4 were talking about Moose Landing LLC?

5 A Yes.

6 Q And I don't remember the line of questioning,
7 so I'll just sort of start as close to the beginning as
8 I can remember. You said -- I think you said -- I'm not
9 trying to misquote you, but I think you said that
10 Moose Landing LLC sort of got off the ground in the
11 summer of 2018; is that right?

12 A Later than that, actually. We started -- I
13 actually came up with the concept for KinFit, the app
14 that we designed around that time, the summer of 2018.
15 And we had a lot of things going on with moving and with
16 other things in life, and I really shelved the idea for
17 several months and then started looking at it again in
18 the fall. And so that was -- the summer of 2018 was the
19 genesis of the concept for the app, but the company came
20 I believe in the winter.

21 Q Of 2018?

22 A Yes.

23 Q Okay. Who owns Moose Landing LLC?

24 A I do along with my wife.

25 Q Does Mr. Hendriks have an ownership interest?

1 A No.

2 Q Is he an employee?

3 A He's a partner in the app.

4 Q So is it fair to say that other than -- well,
5 let me ask a better question: Does Moose Landing LLC
6 have any employees?

7 A No.

8 Q Okay. And other than KinFit, does
9 Moose Landing LLC have any other products?

10 A No.

11 Q Does Moose Landing LLC generate any revenue?

12 A As a general rule speaking, no. We do receive
13 a payout from the Kin Rewards Engine, the KRE, on a
14 weekly basis for the activity generated on the Kin
15 blockchain by our users.

16 Q Okay.

17 A But that's paid out in Kin, but not in fiat.

18 Q Okay. We will -- I have some -- we can talk
19 about that a little bit more. But in U.S. dollars or
20 other fiat currency, there's no revenue for
21 Moose Landing LLC?

22 A Not per se. We did -- when we first launched
23 the app, we won a contest with it, with the
24 Kin Foundation, and won a \$5,000 prize and 100 million
25 Kin on top of that. So that was when we first launched

1 the app we were first to market in the contest.

2 But since then we've received -- let me take
3 that back. We did receive a \$400 payout from a portion
4 of the Kin Foundation that was looking for us to
5 implement a part of Kin that interacts with other apps
6 on the blockchain and allows our app to be searched and
7 referenced by other -- by users on other apps. We did
8 get a \$400 payout for that.

9 Q And I think I have some -- an email about that
10 issue --

11 A Yes.

12 Q -- that we can -- so we can drill down a
13 little bit more. You said that you got \$5,000, though,
14 that --

15 A Yes.

16 Q -- Moose Landing LLC got \$5,000. From whom
17 did Moose Landing LLC get \$5,000?

18 A From the Kin Foundation.

19 Q Okay. Not from Kik?

20 A No.

21 Q So if I told you that that money came from
22 Kik's bank account, that would -- that's inconsistent
23 with your understanding?

24 MR. SMITH: Objection.

25 You can answer.

1 A I honestly don't know. My assumption has been
2 from the Kin Foundation but I actually do not know.

3 Q Okay. I think you've mentioned her. Several
4 times you've mentioned your wife, Courtney.

5 A Yes.

6 Q Is that Courtney Weatherman?

7 A Yes.

8 Q Okay. This is a dumb question but I'm sort of
9 curious. If you look on the second page --

10 A Okay.

11 Q -- it says at the very end of the narrative,
12 it reads, "And the patient skills and engaging UI/UX
13 dynamic brought to the project by Courtney Weatherman."

14 What is UI/US?

15 A User interaction, user experience.

16 Q Okay. There you go. That was -- I told you
17 it was a dumb question. I just -- that phrase appears
18 in a bunch of different places and I just didn't know
19 what that meant. All right.

20 Okay. When was -- when did you start working
21 on KinFit? And forgive me if you've answered this sort
22 of in a different way.

23 A In the late fall, early winter of 2018.

24 Q And when did it go live?

25 A April of 2019 on the Android platform.

1 Q Android. And did it -- well, I know it went
2 live on the Apple as well?

3 A It did.

4 Q When did that happen?

5 A Approximately three months later. I want to
6 say July or August of last year.

7 Q Prior to creating KinFit, have you had any
8 other experience with software development?

9 A No.

10 Q Or app creation?

11 A No.

12 Q How did you meet Mr. Hendriks?

13 A Through Reddit.

14 Q Okay. Can you -- when -- let me step back.
15 When did you meet Mr. Hendriks?

16 A During the process as I was fleshing out the
17 concept for KinFit, I went on Amazon and bought a bunch
18 of books on Android development thinking that I would
19 build this myself.

20 It didn't take long until I realized the
21 learning curve for that would be such that any product
22 that I could develop in time to get to market recalling
23 that we were involved with a contest to come to market
24 wouldn't be very valuable, would not be a great product.

25 So made the decision to seek help. And we put

1 out a call for assistance on Reddit and we had a number
2 of people, a number of people expressed interest in
3 helping us develop the app.

4 After a number of conversations both online
5 and on the phone, we decided to partner with Luc and
6 it's been a very positive experience. He's an
7 incredibly gifted programmer.

8 Q And about when did you put out the call for
9 assistance on Reddit?

10 A Fall of 2018.

11 Q When did you decide to begin to work with
12 Mr. Hendriks?

13 A It would probably be January of 2019. These
14 are rough dates. I don't have exact dates.

15 Q Have you met Mr. Hendriks in person?

16 A Yes.

17 Q Does Mr. Hendriks own Kik? Or I'm sorry,
18 forgive me. Does Mr. Hendriks own Kin?

19 A I -- I don't have direct knowledge of that.
20 He -- as one of our partnership, he has ownership in
21 some of the Kin we built for the partnership. Beyond
22 that, I can't speak to his holdings.

23 Q I'm not asking for specific tickers or
24 anything like that, but are you -- do you invest in the
25 stock market?

1 A Yes, generally. I have a 401(k) with my
2 employer.

3 Q Okay. And do you -- other than your 401(k),
4 do you have any sort of self-directed investments in the
5 stock market?

6 A Not at this time.

7 Q Have you ever?

8 A Yes.

9 Q Do you ever trade in options?

10 A I have in the past, yes.

11 Q Do you ever trade in gold or any commodities?

12 A No.

13 Q Are you familiar with the term "initial coin
14 offering" or "ICO"?

15 A I am.

16 Q And just in your own terms just so that we're
17 sort of operating off the same script, what is an ICO
18 and your understanding of it?

19 A It's when a project issues coins to start
20 their project, basically, in order to get their coins
21 out into the -- into the world basically. Generally
22 people who want -- who believe in the project will buy
23 the coins from them. And during a controlled evolution
24 that carries a lot of know your customer regulations,
25 these people are -- they send their -- usually another

1 cryptocurrency in and it's exchanged for the coin that
2 they are buying.

3 Q Have you ever purchased a digital token in an
4 ICO?

5 A No.

6 Q We touched on this earlier. You did not
7 purchase Kin in its September 2017 ICO?

8 A I did not.

9 MS. BAILEY: Objection.

10 Q Have you ever -- were you aware of the Kin ICO
11 in September of 2017?

12 A I first learned about Kin during that fall
13 period. I don't remember if I was aware of the ICO at
14 the time. I believe that I became fully aware of what
15 Kin was all about after the ICO had occurred.

16 Q So sometime between I think it was late
17 September of 2017 and when you purchased it in December
18 of 2017?

19 A Yes.

20 Q How did you become aware of Kin?

21 A Just through researching. I had become
22 interested that year in cryptocurrencies. It was a
23 hobby. I also learned about -- I had purchased the
24 cryptocurrency called Cardano.

25 The part of the team that had developed

1 Ethereum had split off and gone on to create Cardano.
2 So I was very interested in their technical expertise.
3 They had assembled quite a team of people, so I was
4 interested in that. I bought some Cardano.

5 And I started looking around for other
6 interesting projects and that's when I came across Kik.

7 Q And do you recall reviewing the Kik white
8 paper?

9 A The Kin white paper?

10 Q Yes. Thank you. Did you -- let me ask a
11 better question just so the record is clear: Do you
12 recall reviewing the Kin white paper?

13 A Yes.

14 Q But you did not review it prior to the ICO?

15 A I did not.

16 Q Did you attend any -- any meetings where
17 Mr. Livingston who you understand to be the CEO of Kik?

18 A No.

19 MS. BAILEY: Objection.

20 Q Did you watch any of the videos that were
21 recorded of Mr. Livingston speaking at various events in
22 the summer of 2017 about the Kin project?

23 A I've seen many videos. I didn't watch them in
24 the summer of 2017, but I have seen many videos of him,
25 yes.

1 Q Okay. Before making your purchase of Kin?

2 A I would think so. But it was a period of time
3 where I was doing a lot of reading and doing a lot of
4 learning. I can't say for sure.

5 Q Okay. And when did you buy Cardano?

6 A It would have been probably the summer of
7 2017.

8 Q Do you have any -- I know that you've
9 exchanged ETH for Kin. Do you hold any ether today?

10 A No.

11 Q Do you hold any bitcoin?

12 A Yes.

13 Q And are there any other digital tokens or
14 cryptocurrencies that you currently own other than Kin
15 and bitcoin?

16 A No.

17 Q Have you ever sold any Kin?

18 A Yes.

19 Q How many times?

20 A I think on -- I would -- one to two occasions
21 I moved Kin -- some liquidity out of Kin and into
22 bitcoin.

23 Q Can you tell me when that happened?

24 A Sometime last summer.

25 Q So summer -- well --

1 A Summer of 2019.

2 Q Okay, thanks. Thank you. It's in January so
3 when you say "last summer," I just want to make sure.
4 Summer of 2019?

5 A Yes.

6 Q And when you sold the Kin, how did you do it?

7 A Trying to recollect which exchange I used. I
8 can't remember at this point.

9 Q CoinTiger?

10 A CoinTiger is one that I use a lot, but I don't
11 know if I used it then or not. I probably did. And I
12 basically sold and moved back into bitcoin.

13 Q Okay. And then on the occasions I think
14 you've said -- I wrote it down -- maybe 10 to 15 times
15 that you've purchased Kin --

16 A Yes.

17 Q -- where -- on what exchange did you purchase
18 the Kin?

19 A Usually -- initially it was on Mercatox and
20 more recently it's been on CoinTiger.

21 Q Why did you transfer or exchange the Kin for
22 bitcoin in 2019?

23 A In the wake of the news of the SEC's action
24 against Kik and the -- a company drop in value, it was a
25 financial decision based on trying to stop the

1 hemorrhage. And I think I probably should have done it
2 earlier. It's retrospect so it's hard to say, but it
3 was because of the drop in price.

4 Q To preserve the value of your investment?

5 A That's correct.

6 MS. BAILEY: Objection.

7 Give me one quick second to get an objection
8 in before you answer if you can.

9 THE WITNESS: Okay.

10 Q I think I -- well, you've -- I think you
11 explained earlier today that you received Kin on a
12 number of occasions by a mechanism other than by
13 purchase, like directly from the Kin Foundation or the
14 Kin rewards engine; is that correct?

15 A That's correct.

16 Q Okay. My understanding is that that has been
17 on a more or less weekly basis; is that correct?

18 A That's correct.

19 Q Okay. And when did those transfers begin?

20 A Fall of 2019. I don't have the exact date.

21 Q And those continue to the present?

22 A Yes.

23 Q Why did you buy Kin?

24 A I believe in the project.

25 Q Well, what does -- like, what does that mean?

1 What do you mean by that, "I believe in the project"?

2 A I believe that when all things are considered,
3 there's any number of cryptocurrency projects out in the
4 world that could have value, that could make significant
5 changes in the way the world interacts with each other,
6 the way value is exchanged, the way people earn and
7 spend or exchange their efforts for value, and then
8 exchange that value for goods and services.

9 From everything that I've read and everything
10 that I learned, Kin made the most sense. It made sense
11 that people could earn Kin for doing the mundane tasks
12 that they already do.

13 What we've -- the situation that social media
14 is in now with Facebook dominating the entire spectrum
15 of social media, it's all ad placement in front of
16 individuals. And the Kin project kind of turns
17 everything on its head with that.

18 Instead of using user data and selling it,
19 scraping it from the user's actions and selling it to
20 advertisers, it's a shared reward system where the users
21 perform whatever tasks they were normally going to do
22 and their attention on the -- on whatever apps they're
23 using is rewarded. The developer is rewarded; the user
24 is rewarded. It's a shared effort, shared reward
25 system.

1 And it really moves away from the current
2 social media monetization concept of selling ad space,
3 getting user data, taking user data and selling it
4 without the user being aware or really wanting it to
5 happen or feeling good about it.

6 That really intrigued me, the entire concept
7 of that. It took me a while to wrap my head around,
8 well, how could this work. But the entire concept of
9 how that goes about and the ability to bring anyone with
10 a smart phone the ability to earn money, to earn a
11 currency that has value. That really -- that really
12 spoke to my inner normal person, I guess you could say.
13 And it was the genesis of my idea for KinFit.

14 I had thyroid cancer. I've struggled with my
15 weight since that from my time in the Navy. And in my
16 current job, I'm very sedentary. I sit for many, many
17 hours. All times of day and night, a lot of circadian
18 rhythm disruption. And it's really an issue when I get
19 done with a flight my incentive to get up and move is
20 pretty low. I want to eat something usually wrapped in
21 bread and go to bed.

22 So what's more incentivizing than money? If
23 you can pay somebody to get off the couch, maybe they'll
24 take an extra thousand steps, maybe they'll take an
25 extra 5,000 steps. And that's been the whole basis

1 behind KinFit.

2 Kin, the idea of rewarding users for their
3 actions, and KinFit the idea of say, hey, you know, it's
4 hard to get off the couch when you're tired, when you've
5 had a long day, all you want to do is watch TV and eat
6 ice cream. Go for a walk, we'll pay you. We'll pay
7 you.

8 So that's where the genesis came around and
9 how I got excited about Kin versus any of the other
10 projects in this sphere.

11 Q Did you -- based on what you just talked --
12 what you just talked about, did you buy Kin with the
13 hope that it would go up in value as a result of all
14 those benefits that you were talking about?

15 A Well, of course. We're capitalists. I didn't
16 buy it with the idea of, you know, just say, oh, wow,
17 I've got this Kin. The difference is that, you know,
18 buying a cryptocurrency and especially with Kin and
19 becoming a developer, it was more along the lines of I
20 can use it in my app, it can gain value.

21 There's many other ideas of things that we
22 brainstormed that we want to do with the app. And if
23 we -- we currently have hundreds of people walking every
24 day with Kin around the world. What if we had tens of
25 millions of people walking everyday with KinFit around

1 the world? I need a supply of Kin. So it's been a --
2 one moment, my mouth is drying out.

3 Q Sure.

4 A It's more for me from a really interesting
5 concept that turns the whole concept of labor and, you
6 know, being paid for your efforts on its head to being
7 something that I really feel strongly about that can
8 help people. And there are other apps out there that
9 can do it as well on the KinFit -- on the Kin
10 blockchain.

11 Q Okay. You feel really strongly about your app
12 being able to help people?

13 A I do.

14 Q Did you speak with anyone at Kik before
15 deciding to purchase any Kin?

16 A No.

17 Q At the time of your first purchase, December
18 of 2017, what did you understand Kik would do with
19 respect to Kin, if anything?

20 A My understanding was and has been that Kik is
21 a member of the Kin ecosystem, that they have integrated
22 the blockchain, they were working to integrate the
23 blockchain or that they -- at that time, they had not
24 yet, but they were going to. There was a number of
25 technical hurdles that needed to be addressed and over

1 the intervening two years they've been addressed.

2 But that Kik would be a member, and a rather
3 large one, of the ecosystem. And that was -- that Kik
4 and Kin, the Kin Foundation and Kik were two separate
5 entities and that Kik would be implementing the
6 blockchain into their app.

7 Q Do you know -- at the time that you purchased
8 Kin for the first time in December of 2017, do you know
9 whether the Kin Foundation had any employees?

10 MS. BAILEY: Objection.

11 A I have no knowledge of that.

12 Q Do you know whether the Kin Foundation at that
13 time had any assets other than the Kin that it received
14 in September of 2017?

15 A I have no knowledge of that.

16 Q Do you know whether Kik employees were working
17 on the Kin blockchain?

18 MS. BAILEY: Objection.

19 A I have heard rumors that there was some labor
20 sharing, but I don't have any direct knowledge of it.

21 Q What rumors did you hear?

22 A That some Kin employees were working with the
23 foundation.

24 Q Some Kik employees?

25 A Or, I'm sorry, yes, Kik employees were working

1 with the foundation. I don't know that to be a fact,
2 but I do remember it being a something that I heard or
3 read.

4 Q Okay. Do you remember where you may have
5 heard it or read it?

6 A If I read it, it would be Reddit.

7 Q Oh, okay. At the time of your first purchase
8 of Kin, did you know what Kik planned to do with the
9 money that it received as part of its sale of Kin?

10 A No.

11 Q Was that something that was -- that was
12 important to you?

13 A No.

14 Q Why not?

15 MR. SMITH: Objection.

16 A I don't think I ever considered it. I knew
17 that they had raised a significant sum of money during
18 the token distribution event and it was my -- I don't
19 know if it was my understanding or if I simply assumed,
20 but that that money would be generally be -- generally
21 be used to grow the ecosystem, to help -- I know that,
22 you know, one of the things they did was the development
23 contest that we won. That was a significant sum of
24 money, not compared to the amount that was raised.

25 But things of that nature and the running of

1 the ecosystem was expensive. I assumed that the money
2 was to be used to grow out the ecosystem.

3 Q The money that Kik received from the sale of
4 Kin?

5 A Excuse me.

6 MR. SMITH: Objection.

7 A I don't know how much money Kik received from
8 the Kin ecosystem. And I don't know any of their plans
9 or any of -- anything that they did with any share of
10 money that they may have received.

11 Q Okay. From the initial sale of Kin?

12 A Correct.

13 Q Have you used -- have you used your Kin tokens
14 to access anything in an app that's integrated with Kin?

15 A Yes.

16 Q What have you done?

17 A I've done that -- I've earned and spent Kin in
18 app in dozens of apps. When a new app has come out,
19 generally we all download it and look at it and play
20 with it and see how it works.

21 Some of them are, frankly, not for people like
22 me, middle-aged man. There's an app called Perfect 365,
23 it's a makeup app that allows virtual reality or
24 augmented reality for the user to see how they would
25 look with a certain type of makeup. That's not

1 something that I would -- that I would be interested in,
2 of course.

3 But we looked at these apps. There was a --
4 there's been several gaming apps. We download, play
5 them. Some of them are geared for younger people, much
6 younger, preteens. And, again, it's an incentive and
7 reward system that each app developer is going to gear
8 towards the specific people that they're trying to
9 incentivize or to encourage to interact with their app.

10 Q And your purpose in downloading those apps and
11 using them is to sort of see how they function?

12 MR. SMITH: Objection.

13 A To see how they -- how they interact well, to
14 get ideas on user interactions, on how to better make
15 the user -- how to make the user interaction with the
16 blockchain better, smoother, more interesting for the
17 user, how this app is rewarding versus that app versus
18 our app.

19 Because we're all working together for the
20 same -- we're not working together but we're working
21 towards the same goal. And since there's no actual
22 centralized overarching organization that's telling us,
23 "Well, you do this and you do that and you do this other
24 thing," for each different group, it's a very -- it was
25 a very interesting open dialogue that we had with a

1 number of these developers and people that use these
2 apps in the community.

3 None of these apps were done by -- that I'm
4 mentioning now were built by Kik or by the
5 Kin Foundation. They were just developers that were
6 interested in the blockchain and came and added value by
7 building these ideas into apps.

8 So we wanted to -- you know, people came and
9 critiqued our app and gave us some good feedback and we
10 made changes. We did the same for other developers. We
11 also saw good ideas that, "Hey, we can do that on our
12 app too."

13 So it was kind of an open collaborative
14 process where everybody was encouraging everybody else.
15 But there's not a lot of direct talking. We just saw
16 what people did and people saw what we did.

17 Q Thank you, that's helpful.

18 MR. SCHLEGELMILCH: Why don't we go off the
19 record. Let's just take a short break. We've been
20 going for about an hour.

21 VIDEOGRAPHER: We are off the record. The
22 time is approximately 11 a.m.

23 (Recess.)

24 VIDEOGRAPHER: Back on the record. The time
25 is approximately 11:08 a.m.

1 MR. SCHLEGELMILCH: All right. We're back.
2 Let me mark an exhibit that I should have marked earlier
3 but forgot. So this will be 205.

4 (EXHIBIT 205 WAS MARKED.)

5 BY MR. SCHLEGELMILCH:

6 Q Have you seen -- have you seen Exhibit 205
7 before?

8 A Yes.

9 Q And this is something you wrote about KinFit,
10 the app, right?

11 A That's correct.

12 Q And under "author" on the first page, it says
13 "Moose Weatherman." Is Moose your nickname?

14 A It is one of my nicknames, yes.

15 Q And it says it was published on April the 7th.
16 Is that of this year -- oh, I'm sorry, not of this year.
17 Was that April 7, 2019?

18 A I believe so, yes.

19 Q And I don't have -- I actually don't have very
20 many substantive questions or any substantive questions
21 about it, but I just want to confirm: Is this something
22 that you wrote?

23 A Yes.

24 Q And you published on the Medium social media
25 platform?

1 A That's correct.

2 Q And the content of it, it is about the app
3 that you were at that point developing?

4 A That's correct.

5 Q But have since developed?

6 A Yes.

7 Q Let me hand you what we'll mark as 206.

8 (EXHIBIT 206 WAS MARKED.)

9 Q Have you seen this before?

10 A Yes.

11 Q And this is a Medium post that you wrote and
12 had published on April 23rd, 2018?

13 A That's correct.

14 Q And you did, in fact, own Kin at this point,
15 correct?

16 A Yes.

17 Q How much -- I understand that you don't have
18 the numbers off the top -- on the top of your head. How
19 much Kin in U.S. dollars did you own at this point, just
20 ballpark?

21 A It would be hard to say because the value of
22 Kin changed over time significantly. It could be as
23 much as five or \$6,000. I honestly do not have a -- I'm
24 guessing completely. I don't know.

25 Q Okay. But you purchased Kin at least once?

1 A Yes.

2 Q And if -- and so probably more than that as
3 well?

4 A I'm certain it's been more than once at
5 this -- the point of the writing of this, yes.

6 Q Okay. Did someone from Kik or Kin, the
7 Kin Foundation, ask you to write this?

8 A No. I was approached to be an author on their
9 Medium blog and I accepted that, but I was not asked to
10 write this, no.

11 Q When were you asked to be an author on the
12 Medium blog?

13 A Sometime in the spring of 2018.

14 Q Who approached you?

15 A I believe -- and this is best recollection --
16 Yoel Rivlis. He's no longer with the -- he's been away
17 or he left the Kin Foundation a long time ago. But I
18 believe it was him since he was the community liaison at
19 the time and I believe that it was through him.

20 Q But how is it they asked you to become an
21 author on the Kin Foundation, Medium blog?

22 MS. BAILEY: Objection.

23 MR. SMITH: Objection. Do you mean how they
24 communicated to him?

25 MR. SCHLEGELMILCH: No, that's great. Yeah,

1 no, I appreciate that. Let's -- I'll ask both
2 questions.

3 BY MR. SCHLEGELMILCH:

4 Q What -- how did they communicate with you
5 about becoming an author on the -- like, was it by
6 telephone, by email, by semaphore?

7 A It was not by telephone or semaphore. It was
8 probably by text on Reddit. I can't remember exactly
9 how, but it could have been an email. I believe it was
10 on text on Reddit.

11 Q And why you?

12 MR. SMITH: Objection.

13 Q Why was is that you sort of -- if you know,
14 how is it that you came to Mr. Rivlis -- is that his
15 name?

16 A Yes.

17 Q How is it that you came to Mr. Rivlis or Kin
18 or Kik's attention to become an author on the Medium
19 page?

20 A Because I've been a vocal supporter of Kin for
21 a long time. And apparently I can string words together
22 in a way that makes sense. So that would be my guess.
23 I wrote about Kin often. And in the early days of Kin
24 when the community was larger and more vibrant, I was
25 probably writing on the Kin Foundation Reddit page a

1 couple of times a week, several times a week.

2 Q Okay. So you wrote this which is titled "Kin,
3 the Reader's Digest Version"?

4 A Correct.

5 Q Did you receive any assistance or
6 informational assistance in writing this? And what I
7 mean by that: Is there any information that you got
8 from Kik or from Kin or from some other source to write
9 this, this piece?

10 MR. SMITH: Sorry. Do you mean directly or do
11 you mean did he -- that was provided to him directly or
12 did you mean did he see it on someone else's webpage or
13 things like that?

14 MR. SCHLEGELMILCH: I'll ask directly and then
15 I'll go indirectly.

16 Q So did you receive directly from anyone
17 information, background information that you should
18 include or you could include in your writing?

19 A No.

20 Q Which is Exhibit 206?

21 A No.

22 Q Did you receive sort of indirectly, whether
23 it's on Reddit or on some other online source
24 information that you ended up including in here?

25 A Yes.

1 Q And what were those sources?

2 A The Kin white paper would be a large one.
3 Social media being what it is, it's hard to remember
4 exactly where you are because we jump between them
5 several times a day.

6 But I had gathered information from news
7 outlets, from information about Kik's earlier investors,
8 including Tencent. And there was just -- there was a
9 large value back then of information in the
10 cryptocurrency sphere about Kin. It was new and people
11 were very interested in it.

12 Q Okay. Were you sort of a Kin Foundation
13 author at the time this was published, April 23rd, 2018?

14 A I'm not a hundred percent sure on that but I
15 think I was.

16 Q Were you compensated in any way for writing
17 this?

18 A No.

19 Q If you look on the Page 3 of 13, under the
20 "Basics of Kin," I just want to read something into the
21 record and ask you some questions about it. You wrote,
22 "Kin is the first cryptocurrency designed for mass
23 adoption and utility. It was engineered specifically to
24 act as a currency to be used in millions of daily small
25 and microtransactions; in other words, it was a coin

1 designed to be spent by the masses, not held by
2 speculators."

3 You wrote that?

4 A Yes.

5 Q When you -- do you have an understanding of
6 how Kik marketed the Kin token to investors during the
7 ICO?

8 MS. BAILEY: Objection.

9 A I do not.

10 Q Okay. If you look on Page 4 of 13, you write
11 if you -- it's the first, second -- third full
12 paragraph, the ones that begins "notice that I did not
13 say."

14 A Yes.

15 Q Okay. In there you write at the end of that
16 paragraph, "Those who buy Kin now while the price is
17 well below 1/100ths of a cent will see significant
18 return on their investments."

19 You wrote that?

20 A Yes.

21 Q What was the basis for that statement?

22 A A belief in the growth of the ecosystem which
23 would grow the value of Kin.

24 Q Okay. And would cause the price to rise?

25 A Correct.

1 Q And where did -- you said that you had a
2 belief in the growth of the ecosystem. Where is that --
3 or what I'm driving at is, what is that belief based on
4 at this point in time in April of 2018?

5 A It was based on at that time many months of
6 reading, research of looking at other projects and what
7 they are and aren't doing, what this project was doing
8 and attempting to do, and the -- the use model that they
9 had put forward of creating a remonetization of social
10 media such that user interaction is rewarded to the user
11 as well as to the developer, not just data scraping for
12 advertisement placement.

13 Q Is it fair to say when you wrote -- when you
14 wrote this that you thought that Kin was a good
15 investment, that people should invest in Kin?

16 MR. SMITH: Objection.

17 A I -- I had trouble with the word "investment"
18 because it's a currency, it's not a stock. Do we expect
19 or anticipate or want for its value to rise? Of course
20 we do. But it has a utility.

21 And from the -- I mean, there are thousands of
22 cryptocurrencies that don't have utility, that don't
23 have a workable use case. That's pure speculation.

24 This is not one of them. This is one that's
25 had an incredible team of technical knowledge behind it

1 to build it in the first place and a really compelling
2 case for growing a system for people to earn, use, and
3 spend the currency.

4 Of course we want it to appreciate. Of course
5 we do. Could you -- did you have further question for
6 that for me?

7 Q Yeah, so the question I have is: When you
8 first bought Kin in December of 2017, what were you able
9 to do with it?

10 A Wait. Wait and see what the ecosystem would
11 flesh out. The reason I got interested in Kin in the
12 first place because it was different, because it was --
13 there was no -- it wasn't a fly-by-night thing. It was
14 a strong technical team that were going to build a --
15 the world's best blockchain, arguably the world's
16 fastest, strongest, most secure blockchain to put into
17 user's hands and let them earn and spend through
18 their -- through apps on their phone.

19 It's totally unique. At the time they came up
20 with it, there's nothing out there like it. It was
21 exciting to me. It was, obviously, you don't buy
22 something -- just like people that trade euros and
23 dollars and yen, they expect to make money with it.

24 But there's an entire ecosystem around those
25 fiat currencies that compel the trader to -- or the --

1 you know, the investor, if you want to use that term, to
2 buy those currencies.

3 And it was very similar with this. We --
4 speaking for myself only, I saw a compelling use case.
5 I'm tired of speaking about something to my wife next to
6 Alexa and then going on Google and finding an ad for
7 that. I'm tired of that. I don't like it.

8 Because Google is scraping my data and putting
9 ads in front of me and they're not compensating me for
10 it. They're not doing anything but making lots of money
11 off of me. And so with the Kin use case, it's just very
12 compelling for me.

13 Q But when you made your first purchase in
14 December of 2017, those actual uses were --

15 A No, it was -- they were not there yet.

16 MR. SMITH: Let him answer -- let him finish
17 his question.

18 THE WITNESS: I'm sorry. My apologies.

19 Q My point was just that when -- that the actual
20 uses when you made your first purchase of Kin in
21 December of 2017 were hypothetical. The ecosystem was
22 hypothetical at that point?

23 MR. SMITH: Objection.

24 THE WITNESS: So answer?

25 MR. SMITH: Yes, please.

1 A To my mind they were hypothetical, but they
2 were planned.

3 Q Okay. What is Metcalfe's law?

4 A Metcalfe's law, to my knowledge, not being a
5 mathematician, is the law that states that the value of
6 an electronic system is comparable or parallel to the
7 number of users that use it. An iteration of that has
8 been used to evaluate a number of transactions.

9 Q Okay. Later on in this piece you talk
10 about -- and specifically I'm looking at 9 of 13.

11 A Okay.

12 Q You talk in this section about the two
13 blockchain cryptocurrency that is Kin; is that correct?

14 A Show me where you're --

15 Q Sure. All -- there's a paragraph that begins:
16 "But what about exchanges."

17 A Right. I'm with you now.

18 Q Okay. And to close out that paragraph, you
19 write, "The solution was to create the first ever
20 two-blockchain cryptocurrency. All Kin bought and sold
21 on exchanges is on the Ethereum Blockchain."

22 So my question -- I don't want to read it all
23 into the record, although I can, but my question is:
24 What is this about? Like, what's your understanding of
25 the two blockchain system and how it works?

1 A First off, it doesn't work anymore. It was
2 pivoted away from when technical challenges became
3 insurmountable. And this is, again, my understanding.
4 I was not part of the decision-making process or, you
5 know, advised or in the loop with that in any way.

6 But they started initially with Kin on
7 Ethereum, and that's how when we first became purchasers
8 of the token it was Kin on Ethereum, Ethereum based.
9 What they learned is that Ethereum was not robust enough
10 to handle the amount of traffic they expected on the
11 blockchain from Kin. There was a group of developers on
12 Ethereum that came up with a game called --

13 Q CriptoKitties?

14 A CriptoKitties. It brought the system to a
15 standstill. And this is just my guess, but I think that
16 the Kin Foundation, the technical side, saw that and
17 said, "We have to make a change." And they pivoted to
18 the two blockchain system.

19 That wasn't the final iteration. They pivoted
20 again to a fork of the Stellar Lumens blockchain which
21 is where Kin rests now. And I think there are probably
22 some people out there that still hold Ethereum-based
23 Kin, but there's been a swap process in which I think
24 most users by now have swapped over to the Stellar Lumen
25 forked-based Kin blockchain.

1 Q Okay. And that was sort of my next question.
2 Are all of your Kin in the Stellar blockchain?

3 A Yes.

4 Q Okay. Are you able to liquidate the Kin that
5 you hold without converting them into ether, the Ether
6 Blockchain or the Ethereum Blockchain?

7 A Yes.

8 Q Okay. And that transition from the Ethereum
9 Blockchain to the Stellar Lumens blockchain, who
10 effected that transition?

11 MR. SMITH: Objection.

12 A The Kin Foundation partnered with a number of
13 organizations to make the swap in the spring of last
14 year, 2019. And these organizations set up systems by
15 which holders of Kin would submit their Kin, their
16 Ethereum-based Kin and it would be swapped out for
17 Stellar Lumens, a fork of Stellar Lumens-based Kin. And
18 it was a one-for-one swap. There was no value change.
19 But that was offered in the spring of last year.

20 Q And do you know whether -- and in the spring
21 of 2019 whether the Kin Foundation had any employees?

22 MS. BAILEY: Objection.

23 A I don't have any knowledge of the
24 Kin Foundation's employees.

25 Q Do you know whether or not it was actually

1 Kik Interactive employees that did the transition from
2 one blockchain to the other?

3 A I do not.

4 Q In writing this piece, is it fair to say that
5 your purpose was to get people to invest in Kin?

6 MR. SMITH: Objection.

7 A No.

8 Q What was your purpose?

9 A To educate. When people -- when
10 cryptocurrency enthusiasts purchase a cryptocurrency,
11 it's for a number of reasons, some of which,
12 unfortunately, are because they've been scammed. But
13 what I've found is that being able to disseminate
14 information is a positive thing, and that was my goal.

15 To be honest with you, whether one person or
16 another person invests in Kin doesn't matter to me. It
17 doesn't change anything I'm doing because my focus and
18 my goal was not on speculative purchasing.

19 I'm a developer now and I have a vested
20 interest in the success of the blockchain. I have, you
21 know, a small company that hasn't made any money but
22 that we're very excited about what we've been doing.

23 My focus in everything I've done -- and this
24 is before I developed the app, but this was part of the
25 process. Writing this was part of the process that got

1 me to where I felt like I could make a positive impact
2 with an app that does what mine does.

3 I felt then that the more knowledge that
4 people have about Kin, the more that people are apt to
5 see it in the -- out in the world and say, "Oh, there's
6 an app that uses Kin. I heard about that. I read about
7 that. I'm not afraid of that."

8 Because, remember, bitcoin was only invented
9 11 years ago, 10 years ago, whatever the number is.
10 Everything is very new. And we felt -- at the time that
11 I wrote this, I felt that there was going to be a time
12 when everybody new what Kin was. But that time wasn't
13 now, and helping people to understand what Kin can do on
14 a macroscale, a big picture scale, was very important to
15 me.

16 I make no money, have no interest in whether
17 or not people that read this go out and buy Kin. It
18 doesn't affect me at all. And I don't think -- I mean,
19 if enough people do it, of course it could affect the
20 price, but in the long run, the goal is utility, the
21 goal was -- is mass adoption, and bringing something of
22 value to the user.

23 Q Did anyone at Kik or Kin review this before
24 you published it?

25 A No.

1 Q But just to return to something that you just
2 said, is it fair to say, though, that you wrote this in
3 order to encourage sort of the larger adoption of Kin?

4 A Sure, I would agree with that. If by
5 "adoption" you mean get the word out about Kin, make it
6 so that people are familiar with the term, familiar with
7 the ecosystem so that when they find an app that uses
8 Kin they're not immediately worried about, you know,
9 "Oh, it's a cryptocurrency, is it a scam," because
10 there's a lot of bad information about that kind of
11 thing. That's the kind of thing that I was wanting to
12 influence in people.

13 And, to be honest with you, this is something
14 I wrote on Medium. It was published -- I published it
15 on Reddit. It was for the community because there are a
16 lot of new people that are coming in and asking very
17 basic questions, and have -- I wanted to put something
18 out there that was kind of an overview of how I felt the
19 Kin Foundation was setting itself up for the future and
20 its growth.

21 There was -- you know, these are my opinions,
22 nobody else's.

23 Q Okay.

24 A So based on the readings and the information
25 that I had at the time.

1 Q Okay.

2 (EXHIBIT 207 WAS MARKED.)

3 Q Have you seen this before?

4 A Yes.

5 Q This is another Medium post that you authored
6 about a month after the one we just looked at?

7 A Yes.

8 Q And your purpose -- your stated purpose in
9 this was to inform people how to invest in Kin, correct?

10 MR. SMITH: Objection.

11 A It was -- my purpose was to inform people how
12 I felt a smarter way to invest or to buy Kin was because
13 of the volatility. Using a dollar cost averaging
14 technique where you don't -- if you have, say, \$500, you
15 don't just go buy \$500 worth of Kin. Set it up on a
16 weekly schedule or a monthly schedule or whatever works
17 for your -- the money that you intend to spend. And
18 that way you tamper down the -- not tamper, you tamp
19 down the volatility in the price swings.

20 Q Okay. And so your intent was to educate
21 people on how you had been purchasing Kin?

22 A Yes.

23 Q In order to deal with the volatility?

24 A Yes.

25 Q Were you still a Kin author at this time in

1 May of 2018?

2 A I believe so, yes.

3 Q Did anyone at Kik or Kin provide you with
4 information that you used to put in this?

5 A No.

6 Q Did anyone at Kik or Kin review it before you
7 published it?

8 A No.

9 Q Were you compensated in any way for publishing
10 this?

11 A No.

12 Q And why is it that you wanted to provide
13 people with information about how you had purchased Kin?

14 A Because, again, it's helpful. It helps
15 people. If someone purchases Kin and the price drops by
16 20 percent, they've lost value. If they've spent
17 their -- all the money they had to buy Kin for X period
18 of time and then the price drops, it's damaging to them.

19 For people that saw the same utility in value
20 in Kin that I did, if they're buying in, I just put it
21 out there as this might be a better way, a more safe
22 way, that could minimize the swings and allow you to buy
23 Kin without, you know, basically putting yourself at the
24 begarities (phonetic) of what's the current price.

25 Because the price was based -- since we didn't

1 really have a fleshed out ecosystem, everything was
2 still being built and there were a lot of decisions
3 still left to be made with Kin. The only value that was
4 coming out of -- or the only thing that was affecting
5 the value of Kin was speculation at that time. And
6 that's a very fickle thing.

7 So my thought was to maybe help some people
8 who didn't have a lot of money but wanted to buy a
9 little Kin from getting too hurt. Instead of spending
10 all your money all at once, buy a little now, buy a
11 little down the road, but a little more down the road.
12 And as you go down the road, obviously you have more
13 information, too, and you can make better decisions the
14 more information you have.

15 Q So when you wrote this it was your view that
16 the only thing that was really affecting the value of
17 Kin was speculation?

18 MR. SMITH: Objection.

19 A That's correct. There were technical -- we
20 knew there were technical hurdles that had to be
21 addressed and that the Kin Foundation was working on at
22 that time, and there was still a lot up in the air as to
23 how the technical issues would be addressed.

24 But at that time, yes, we didn't have a fully
25 fleshed out ecosystem. We only had a plan for one. I'm

1 not sure exactly what we had going on at that point, but
2 the main driver of value was speculation.

3 Q Okay. I think this is the point in my
4 presentation where we can start going quickly because
5 we've covered a lot of this out of order. Yeah, we have
6 covered.

7 You owned EUR/C20 Kin tokens?

8 A Yes, I did.

9 Q And you migrated them all?

10 A Yes.

11 Q Look at that. Making progress. Okay. Let's
12 mark this as -- I'd like to talk a little bit more about
13 the KinFit app.

14 A Okay.

15 Q So let's mark this as 208.

16 (EXHIBIT 208 WAS MARKED.)

17 Q Have you seen this before?

18 A Yes.

19 Q And this -- I'm just doing this for speed's
20 sake. This is the proposal that you put together to
21 submit for the contest; is that right?

22 A No.

23 Q Oh, well, then, I'm -- let's not skip ahead.
24 What is this?

25 A This is a PowerPoint presentation that I made

1 in order to find a designer, find a technical expert to
2 build the app with us. And it was used after getting
3 confidentiality statements from people that were
4 interested. I sent this to them and we talked about it.
5 And this was the PowerPoint presentation that Luc
6 received and got him interested in participating with
7 us.

8 Q Okay.

9 A That said, I may have submitted this with doc,
10 I don't recall.

11 Q Yeah, I don't know either. I just -- I saw it
12 in your production and that's what I assumed it was.

13 So I'd like to just ask a little bit about how
14 the app works. So I -- it is a -- it's -- it's a step
15 tracker?

16 A It uses your phone's native-built pedometer --

17 Q Right.

18 A -- and accesses the data from that.

19 Q Okay. And then based on the number of -- and
20 I'm not -- I'm trying to -- if I get anything wrong,
21 just correct me. But based on the number of steps you
22 take, if you cross certain threshold, you receive Kin;
23 is that correct?

24 A That is correct, yes.

25 Q And where does -- the Kin goes from where to

1 where?

2 A The Kin goes from our -- we have a wallet,
3 what's called a hot wallet on the blockchain that the
4 app accesses when a user takes steps and earns Kin --
5 this all happens at the end of the day.

6 Q Okay.

7 A Let me start at the beginning.

8 Q Yeah, please.

9 A Twenty-four hour period starting at 0001 user
10 time and ending at 2400 user time. During that time,
11 when the user opens the app, it accesses the blockchain
12 and triggers the app to look at your pedometer on your
13 phone. It takes that information in broad strokes --
14 Android and IOS both work similarly through different
15 methods but it takes that data. And based on the
16 algorithm we designed, it rewards you, the user, Kin
17 based on the number of steps you've taken during the
18 day.

19 And as you reach progressive setpoints of
20 steps, that amount grows. At the end of the day, 2400,
21 the app accesses the blockchain again and rewards the
22 user the appropriate amount of Kin into a native wallet
23 on their phone that's nested in the app.

24 So they have access to the Kin in the app.
25 They can send it from the app to wherever they wish.

1 They can donate it to Unicef from the app. And right
2 now we're just waiting for legislative clarity to
3 proceed further with more things to do with the Kin that
4 our users earn and what they can do with it.

5 Q Okay. So the -- and then broad strokes, at
6 the end of the day, the app figures out how many steps
7 you've taken, how many Kin you are due, and the Kin
8 moves from your hot wallet -- and by "your," I mean
9 KinFit's hot wallet --

10 A That's correct.

11 Q -- to the user's hot wallet or the user's
12 embedded wallet?

13 A Correct.

14 Q Where does the Kin in your hot wallet,
15 KinFit's hot wallet, come from?

16 A I bought it.

17 Q Okay.

18 A In addition to the KRE has -- rewards us on a
19 weekly basis based on user interaction. The vast
20 majority of it that's in our hot wallet I purchased for
21 this purpose. And -- but there is some that comes from
22 the KRE. There's also a hundred million that we won
23 from the contest for designing the app in the first
24 place.

25 Q Okay. I think -- is it 1 million?

1 A 100 million.

2 Q Oh, okay. Well, I got -- okay. So how does
3 KinFit, your company, how does it profit from the
4 operation of the app?

5 A We are rewarded through the KRE an amount
6 based on the KRE's algorithms, which is in excess of
7 what we pay out to our users. Off the top of my head, I
8 don't know the numbers. Although -- and our payouts
9 have changed. We've changed them as we've designed the
10 app and gone through the different iterations. But we
11 are rewarded more than we pay out.

12 Q Okay.

13 A And so our pay is in Kin cryptocurrency.

14 Q In the delta between what you received from
15 the KRE and what you pay out to users of the app?

16 A That's correct.

17 Q And so if the value of Kin increases, both the
18 value to the users increases and the value to KinFit and
19 Moose Landing increase?

20 A That's correct.

21 Q That's the value proposition of why you went
22 through all the effort --

23 A Yes.

24 Q -- of building an app?

25 A Yes.

1 Q Let's mark this as 209.

2 (EXHIBIT 209 WAS MARKED.)

3 Q This is an email to you from Alex Cohen at
4 the -- at kin.org dated May the 7th of 2019 at
5 10:51 a.m.

6 Have you seen this before?

7 A Yes.

8 Q Okay. And obviously you would know better
9 than I, but you were right, you received 10 million
10 dollar -- or 10 million Kin as part of this contest?

11 A No, sir. 100 million Kin.

12 Q I got it wrong again. And I'm, like, looking
13 at it and I still got it wrong. What -- let's start
14 over.

15 What's -- what's happening in this email?

16 A This is alerting us to the fact that we had
17 reached the milestones that we were striving for with
18 our app going live and that they were going to deposit
19 100 million Kin into our wallet and that they were
20 sending us \$5,000 for the Early Bird Award per their
21 contest rules.

22 Q And do you recall -- and I think I've asked
23 this earlier in the day, and forgive me for that, but do
24 you recall from whom you received the \$5,000, whether it
25 was Kik or Kin or somebody else?

1 A I do not recall.

2 Q Did you, in fact, receive \$5,000?

3 A We did.

4 Q And the 100 million Kin, did you, in fact,
5 receive that?

6 A Yes.

7 Q What was -- at the time of this email, May 7
8 of 2019, what was the approximate dollar value of 100
9 million Kin?

10 A Approximately \$5,000.

11 Q Okay.

12 A I remember the overall number being in the
13 neighborhood of \$10,000 value for the \$5,000 in U.S.
14 fiat dollars and 100 million Kin being worth about
15 \$5,000.

16 Q Okay. And the \$5,000 U.S. dollars, was this
17 wired to you?

18 A Yes.

19 Q And what -- I think you've talked about this
20 but I just want to be specific, what was it that you
21 were being compensated for or awarded for? What had you
22 done that made you eligible to receive this reward of
23 \$5,000 and the 100 million Kin?

24 A We had initially applied for and been accepted
25 into the Kin developer program which was a contest, and

1 that these were the rewards for -- for -- I believe it
2 mentions in here, we achieved the Go Live Milestone and
3 we were one of the first 10 apps to go live. In fact,
4 we were the first to go live, if I remember correctly,
5 which triggered both of those awards.

6 Q Okay.

7 (EXHIBIT 210 WAS MARKED.)

8 Q I'm handing you what's Exhibit 210. This is
9 an email -- this is an -- the top email is an email from
10 you to Hadar Landau with a carbon to Mr. Hendriks --

11 A Yes.

12 Q -- dated May the 26th of 2019. Do you see
13 that?

14 A Yes.

15 Q Who is Mr. Landau?

16 A Hadar Landau is female.

17 Q Oh.

18 A And she was part of the team in Israel. I've
19 never met her or spoken to her directly. But she was
20 running the Discovery Kinnovation program which was a
21 program to allow users from each app to learn about and
22 explore other apps in the Kin ecosystem.

23 And it's a module which is a group of code
24 that goes into each individual app and allows the users
25 to interact with -- move to and interact, possibly

1 download other apps, and to learn more about the Kin
2 ecosystem. It also allowed users to move Kin between
3 apps. So if perhaps they wanted to earn their Kin with
4 KinFit, my app, and they wanted to spend it somewhere
5 else, they could move it and spend it somewhere else.

6 Q And does that functionality exist in KinFit,
7 in your app?

8 A Yes.

9 Q So you could send it to -- what is it --
10 Perfect 365?

11 A You could, yes.

12 Q And so is this thing -- the first email that
13 you wrote to Ms. Landau lists the Lean Discovery -- Lean
14 Disco Model [SIC] and the Kinnovation Module. Are those
15 two separate things?

16 A It's my understanding that they are, yes.

17 Q So which is which?

18 A The Lean Discovery Module or Lean Disco, as I
19 colloquialize it there, is a module that allows the user
20 to look at a link to other apps and maybe a small
21 explanation, a short explanation of what the other
22 apps -- each other app does. The --

23 Q Like, a thumbnail, that's why it would be
24 lean?

25 A Similar, yes. It's -- it's a small -- a small

1 insertion into your program. The Kinnovation module is
2 the one that allows -- and this is just my
3 understanding. I'm not the technical side of this, but
4 my understanding is the Kinnovation model allows users
5 to move Kin between the apps.

6 Q Okay. Great. I'm gonna hand you what I will
7 soon mark as 211.

8 (EXHIBIT 211 WAS MARKED.)

9 Q This is an email -- it's to you but you're by
10 blind carbon --

11 A Right.

12 Q -- from Ms. Landau, dated June the 6th of
13 2019. And she's writing to let you know that you won
14 the Lean Discovery Module challenge. What is that?

15 A That was a challenge to institute the Lean
16 Disco Module into our app. And each developer had this
17 challenge as well, had the option to opt in and do this.
18 But within a certain period of time, if you put your app
19 in or put the module into your app, they would reward
20 you with a small financial grant.

21 Q You received \$400?

22 A My memory is it was \$400 and 1 million Kin.

23 Q Okay. Do you recall where you received -- or
24 from whom you received the \$400, was it from Kik or Kin
25 or some other entity?

1 A My assumption is it's from Kin. Hadar's email
2 address is a kin.org email address. I've been under the
3 assumption that everything we've earned comes from Kin.
4 I don't have direct knowledge of that, but that's been
5 my assumption.

6 Q Okay. Just to close the loop on this,
7 here's -- I'm handing you what's been marked as 212.
8 We're at them, I might as well mark them.

9 (EXHIBIT 212 WAS MARKED.)

10 Q And this is an email from Ms. Landau to you
11 and Mr. Hendriks dated June the 17, 2019.

12 Do you see that?

13 A Yes.

14 Q And in here she's informing you about your
15 receipt of 1 million Kin, 327-and-some-change additional
16 Kin, and 400 U.S. dollars; is that correct?

17 A That's correct.

18 Q And this was money that -- money in Kin that
19 you received for implementing the discovery module, the
20 Lean Discovery Module into your app?

21 A That's correct.

22 (EXHIBIT 213 WAS MARKED.)

23 Q Let me hand you what's been marked as 213.
24 And this is an email from Ms. Landau to you and
25 Mr. Hendriks with a carbon to Orad Weisberg?

1 A Correct.

2 Q This indicates that you're receiving a payment
3 for tourism transactions and the payment is in the
4 amount of 161,538 Kin?

5 A That's correct.

6 Q What is a tourism transaction?

7 A The tourism effect is the movement of Kin from
8 one app to another. It was realized sometime ago that
9 as each app developer builds their app and attracts
10 users, they reward Kin to those users. Well, that Kin
11 comes out of that app developer's wallet. It's their
12 asset that they're rewarding to their users.

13 If there's no accounting for the amount that
14 users take out of one wallet and put into another for
15 the purposes of rewarding under the KRE, some app
16 developers might be unjustly punished if people that
17 will earn on one app and move to another were simply to
18 do that and there was no accounting for it.

19 The tourism payment is a KRE accounting of
20 that movement of Kin so that the app developer whose
21 users earned that Kin -- and remember that once the user
22 earns Kin, it's theirs. It belongs to them. It's their
23 wallet. If they move it off of that app and don't spend
24 it in that app, then that developer loses a portion of
25 their KRE computations for rewarding because it's not

1 just earning, it's also spending.

2 This tourism payment is to account for some
3 amount of that. The exact numbers, I don't know. It's
4 beyond -- well, it's beyond anything that our -- us as
5 an app have to do with. It's done at the KRE level.
6 Kin Foundation does it.

7 Q This email was -- is dated August 5th of 2019.
8 Does the tourism -- tourism transactions or the tourism
9 compensation, does that still exist?

10 A To my knowledge, it does.

11 Q Okay. And how often do you receive tourism
12 payments?

13 A Once a week. They -- I believe they may have
14 merged into one payment versus two separate payments,
15 but I honestly don't know. I can't -- I'm trying to
16 remember the last time I saw a discrete tourism payment.
17 It's been a while.

18 Q Okay. So it's your understanding that KRE --
19 the weekly KRE payment and the tourism payments have
20 been merged into one payment?

21 A Yes, that's my understanding, but I don't have
22 knowledge to that.

23 Q Okay.

24 (EXHIBIT 214 WAS MARKED.)

25 Q Let me hand you what's been marked as 214.

1 And this -- in the documents that you produced pursuant
2 to our subpoena, there were a number of emails like
3 this. I just picked one.

4 Are you familiar with that?

5 A Yes.

6 Q Okay. And this was an email dated
7 November 22nd, 2019, from Kevin Rickoy. Did I pronounce
8 that right?

9 A I think so, yes.

10 Q To you. And it indicates that you received
11 10,591,993 Kin for the period November 3 through
12 November 9th?

13 A Correct.

14 Q And, again, you received, maybe not this
15 amount, but you received payments like this every week
16 or so from the KRE?

17 A Yes. There's some interruptions with the
18 holidays and they changed dates a little bit, but, yes,
19 we get them every week.

20 Q Okay. Are they in about -- currently, are
21 they in about this magnitude of 10 million?

22 A They're a little bit larger.

23 Q Okay. Can you recall just to -- I'm not
24 asking for precision, but can you recall sort of the
25 order of magnitude of the most recent KRE payment you

1 got?

2 A Probably about 70 percent larger than this,
3 somewhere in the neighborhood of 18 to 19 million Kin.

4 Q And a portion of that Kin that you receive is
5 to compensate you, the app developer?

6 A Correct.

7 MR. SCHLEGELMILCH: You know what, we've been
8 going for another hour, can we go off the record?

9 VIDEOGRAPHER: We are off the record. The
10 time is approximately 12:03 p.m.

11 (Recess.)

12 VIDEOGRAPHER: We are back on the record. The
13 time is approximately 12:48 p.m.

14 Q (BY MR. SCHLEGELMILCH) We're back.
15 Mr. Weatherman, do you understand that you're still
16 under oath?

17 A Yes.

18 Q Great. In the last two -- well, I guess now
19 we're at three months, have you heard anything about
20 layoffs at Kik?

21 A I've heard rumors. Nothing official. I'm
22 trying to differentiate between Kin Foundation and Kik
23 here. I don't -- to my recollection, I don't know about
24 layoffs at Kik. I've heard of layoffs at the
25 Kin Foundation.

1 Q What have you heard?

2 A That they let basically -- well, the majority
3 of the team go with the exception of 19 members, 19 key
4 workers.

5 Q Okay. And those -- the 19 that remain are
6 employees of which entity?

7 A I don't know this, but it's my assumption that
8 they are Kin Foundation, but I don't know.

9 Q Okay. So based on what you understand, has
10 the -- has the recent layoffs had anything to do
11 whatsoever with Kik?

12 A I don't know that. I don't have any
13 information about it.

14 Q Okay. And what's the source of information
15 that you do have?

16 A Just reading different people's comments on
17 Reddit.

18 Q Okay.

19 A Social media. So nothing solid, nothing
20 official from the company with the exception of the fact
21 that there were 19 people left. I read that from a post
22 that Ted Livingston put out.

23 Q And Mr. Livingston is the CEO of Kik?

24 A Kik Interactive is my understanding, yes.

25 Q But just to make sure I understand, it's your

1 understanding that the recent departures and the fact --
2 or the fact that there's only 19 left, that those 19
3 left are Kin Foundation employees?

4 A I don't have that information. I perhaps
5 assumed that.

6 Q Oh, okay.

7 A But I don't know that. And I wasn't involved
8 with any of those decisions or have knowledge, direct
9 knowledge of it. I've just heard rumors and heard
10 different things. It was my assumption that they were
11 Kin Foundation employees, but I don't know that for a
12 fact.

13 Q Okay.

14 (EXHIBIT 215 WAS MARKED.)

15 Q Let me hand you what has been marked as 215.
16 This is one of the documents that you produced in --
17 pursuant to our subpoena?

18 A Yes.

19 Q And this is a PM convo, is that a private
20 message conversation?

21 A Yes.

22 Q And what -- what platform is this -- is this
23 generated by?

24 A It's on Reddit.

25 Q Okay. So you can private message on Reddit?

1 A Yes.

2 Q Okay. And it looks like the participants --
3 and just correct me if I'm wrong. But it looks like the
4 participants in this private conversation are you,
5 Hiker2mtn, and Kevin from Kin?

6 A That's correct.

7 Q And Kevin from Kin's actual name is
8 Kevin Rickoy?

9 A Correct.

10 Q Okay. R-I-C-K-O-Y.

11 Does Mr. Rickoy, does he moderate or curate
12 the Kin Subreddit?

13 A I believe he does. I believe that's part of
14 his responsibilities. He is a -- considered a community
15 liaison or a community moderator --

16 Q Okay.

17 A -- for the Reddit community.

18 Q And whom is his employer?

19 A I believe that it's Kin, Kin Foundation.

20 Q And not Kik?

21 A That's my understanding.

22 Q Has he ever told you who he works for?

23 A No. But his handle was Kevin from Kin,
24 so . . .

25 Q So based on his handle, you assumed that he

1 works for Kin?

2 A Based on his handle, yes.

3 Q What -- so this -- it looks like the first
4 message in the thread is November 9th. Is that of
5 November 9th of 2019?

6 A Yes, it is.

7 Q And what is -- what's going on in this thread?

8 A Well, for the month of November I was able to
9 bid for as part of my normal job a layover in Amsterdam.
10 To fly the jet over, have 24 hours in Amsterdam, and fly
11 the jet back.

12 And I started thinking of it would be a good
13 idea to get together with Luc because we don't have many
14 opportunity to see him. Courtney had never met him and
15 my wife, Courtney, came with me on that trip.

16 We decided to open that up and have a KinFit
17 meet-up where we put a call-out on Reddit for some of
18 our users, some of the people that we've chatted with
19 over the months and the years to come and have an adult
20 beverage and talk about KinFit. And we ended up having
21 that. And I'm trying to think of the exact date. I
22 cannot remember. I believe it was the 26th, but I'm not
23 a hundred percent.

24 Q Okay.

25 A It's right after Thanksgiving.

1 Q Okay. And you held that -- the meet-up in
2 Amsterdam?

3 A Yes.

4 Q Where in Amsterdam?

5 A In the bar at the -- in the lobby of the hotel
6 where we stay as a flight crew. It's called the
7 NH Galaxy.

8 Q And then it looks like you asked Kevin from
9 Kin if he could reimburse you for the cost of the drinks
10 purchased at the --

11 A Yes.

12 Q And have you been reimbursed for the drinks?

13 A No, I haven't submitted the receipt as of yet.

14 Q Okay. Let me hand you what's been marked as
15 216.

16 (EXHIBIT 216 WAS MARKED.)

17 Q This is another Reddit private message
18 conversation between you -- you and Yoel Rivlis; is that
19 correct?

20 A Correct.

21 Q And you produced this to the SEC pursuant to
22 our subpoena?

23 A Yes.

24 Q And it looks like the first message in the
25 thread is from September 11th, 2018. Am I reading that

1 right?

2 A That's what it looks like, yes.

3 Q And who is Mr. Rivlis, or is it a mister or is
4 it -- I don't --

5 A It is a mister.

6 Q Okay.

7 A To my knowledge, yes. In fact, I've seen a
8 picture. He's male. He was the community, lack of a
9 better term, moderator, community liaison for the Reddit
10 community. Social media coordinator perhaps is another
11 term for it. Between the community and the Kin
12 Foundation.

13 And this was in 2018. He's no -- he left --
14 I'm trying to think of exactly when he left the
15 Kin Foundation but it was some time ago.

16 Q Okay. If you look at your message on
17 September 14th, 2018, you say, "Hey, Yoel, got some
18 Fudding going on, on the sub. Someone should get in
19 there and address Adam SC1's issues as real and being
20 handled or not real and not an issue and why."

21 What are you talking about in that message?

22 A I'm talking about FUD.

23 Q Which is fear, uncertainty and doubt.

24 A That's correct. Being spread by a member of
25 the community who had been working -- this person, Adam,

1 who I do not know personally had been a -- selected as a
2 community -- excuse me -- as a community leader by the
3 Kin Foundation early on and then ended up having
4 personality clashes and getting into some arguments --
5 this is my understanding -- with people and was no
6 longer -- he was disinvited to be a community leader.

7 And that turned his attitude from very
8 positive on Kin to working very hard to undermine in the
9 community. So he was spreading FUD. This is my
10 opinion. And he is also a coder. A lot of the things
11 that he was saying I didn't have the technical expertise
12 to address.

13 And in this conversation, I'm asking Yoel to
14 get some assistance in either, you know, addressing his
15 concerns as valid and we're fixing it or not valid and
16 don't listen to him because I didn't have the technical
17 expertise to determine. And that's what this
18 conversation is about.

19 Q So you're asking Mr. Rivlis to sort of better
20 curate the Subreddit?

21 A To get some technical help. Yoel was not a
22 coder, to my knowledge, either. He may have been, but I
23 didn't know that at the time.

24 Q Was there an event at an AMA, which I think is
25 an Ask Me Anything --

1 A Yes.

2 Q -- that you recall?

3 What happened?

4 A You'll have to be more specific. Sure.

5 Q A number of the -- as the thread goes on,
6 there's a number of conversations about -- so, for
7 example, looking at the December 5th, 2018, message from
8 Mr. -- Mr. Rivlis to you, he writes, "Thank you, Buddy.
9 It's funny. We walked into this AMA feeling good with
10 the preparation made and the team's excitement and the
11 community's engagement, and then it happened, this
12 feeling that there is someone waiting by the corner with
13 a baseball bat waiting for us to make a move so they can
14 hit."

15 A Right.

16 Q I'm just -- were you at the AMA or do you have
17 an understanding of what happened at the AMA?

18 A Well, first off, the AMA is not a place. It
19 is an online event.

20 Q I see.

21 A It is a period where on Reddit the community
22 can ask questions on a thread and the most up-voted or
23 liked questions will be addressed by whoever the AMA
24 is -- whoever is doing the AMA. In this case, it would
25 be Ted, Ted Livingston.

1 The questions that this person that I had
2 mentioned before, Adam SC1, asked were adversarial in
3 nature and were very critical of the Kin Foundation's
4 technical decision making and technical implementation
5 of the then still building out Kin blockchain.

6 That's what this was about. And this person
7 has the kind of personality, speaking of Adam SC1,
8 whereas if he's not the chief then everything that
9 everybody else does is wrong.

10 And it's a toxic personality trait that I
11 think was identified pretty quickly. It's obvious that
12 he has knowledge and skills and has built several apps,
13 but it's his -- he was unable to work well or play well
14 with others.

15 And this is what we were talking about. AMA's
16 were opportunities to get information out to the
17 community from the Kin Foundation that the community
18 wanted answers on or needed answers on or were concerned
19 about.

20 And I believe the feeling during this
21 discussion is that the AMA got hijacked by this person
22 and some people that kind of went in with him with the
23 intention of disrupting the AMA.

24 Q Okay. So if you -- what day is that? That's
25 on December 5th. It looks like a week later on December

1 the 11th, Mr. Rivlis sends you another message at, it
2 looks like 2:16 a.m. Although I don't know how the
3 timestamps are generated so that can be any time.

4 But it's -- he writes, "Hi" -- "Hey,
5 Hiker2mtn. So the community team is working on
6 different engagement initiatives from the start of the
7 new year. One of the first ones we want to do is with a
8 handful of our most active members, working with the BI
9 team, we were able to track pulling stats from Reddit
10 and Telegram our most active and engaged members of the
11 community."

12 What was your understanding of what they were
13 planning to do as it pertained to you?

14 A Let me read forward here.

15 Q Yeah, of course.

16 A There have been a number of initiatives over
17 the two and a half years that I have been involved, or
18 two years. I don't believe that this ever came to
19 fruition. I don't believe anything ever came of it.
20 And I'm drawing a blank as to anything that may have
21 come from it.

22 I believe that at this point I was already an
23 author on the Medium blog that I mentioned earlier in
24 the deposition, but I cannot recall that anything ever
25 came of this. I'm pretty sure that I answered his

1 questions, but I don't believe that I was ever
2 designated as anything or became anything from that
3 moment.

4 Q Yeah, that's where I was getting at. And I
5 think if you look at Page -- it's the -- it ends in 136.

6 A Okay.

7 Q And this is what -- on December the 18th of
8 2018, Mr. Rivlis at 8:25 a.m. asks if you can send your
9 address because "we were hoping to send everything out
10 by the end of the week."

11 A Right.

12 Q I'm just curious if you have a memory of what
13 it was --

14 A I do.

15 Q -- that they wanted to send you or what did
16 they send you?

17 A They sent a Christmas card and a pair of socks
18 with the Kin emblem on it.

19 Q Oh, okay.

20 A It was kitschy. It was just a little silly
21 gift.

22 Q Okay.

23 A I think my wife still has those socks.

24 Q All right. Okay. I think that's all I have
25 on that one.

1 Here's 217.

2 (EXHIBIT 217 WAS MARKED.)

3 Q And this, is it not, a private message
4 conversation with Ted Livingston on Reddit?

5 A That is correct.

6 Q And, again, you produced this in -- in
7 response to the SEC subpoena?

8 A Yes.

9 Q And I have a question about your post on
10 October the 18th, 2018.

11 A Okay.

12 Q You write in the second part of your message,
13 "As an aside, I dropped your team an email this week,
14 careers@kinecosystem, hoping to be considered for a
15 position in your communication team. I'm an airline
16 pilot by trade and, obviously, I love my job, but I have
17 a lot of downtime, much of which I already spend reading
18 or writing about Kin anyway. If you need an
19 enthusiastic communicator, let me know. Take care and
20 keep on changing the world for the better."

21 So at this time in October of 2018, had you
22 asked Kik or Kin for a job?

23 MR. SMITH: Objection.

24 A I had offered -- I don't know that I really --
25 I don't know if I phrased it as a job or as an I'm

1 available if you need assistance because I'm on Reddit
2 pretty constantly anyway talking about this back then.
3 In any event, nothing ever came of it.

4 Q Okay. Was it your hope that it would be a
5 paid position?

6 A You know, no, because I'm not -- I wasn't
7 going to leave my job. Any pay that they want to give
8 would have been fine, but I wasn't really looking for
9 that. I wanted to be more involved.

10 Q Have you ever met Mr. Livingston in person?

11 A No.

12 Q Have you ever talked to him on the phone?

13 A No.

14 Q But you've had -- you've communicated with him
15 on Reddit in the private message?

16 A That's correct.

17 Q Have you -- have you communicated with him in
18 any other way?

19 A No.

20 Q Not by email or anything like that?

21 A I don't believe so.

22 Q Okay.

23 A I'm fairly certain that I have not.

24 Q If you look at the post on October the 29th,
25 which is at Page 128.

1 A Say again, the -- oh, October 29th. I'm right
2 here.

3 Q And that's October the 29th -- October 29th of
4 this year, correct? No, that's incorrect. It's October
5 the 29th of 2019.

6 A It doesn't say here and I'm -- I would assume
7 you are correct, but I do not -- without taking -- it
8 says '18 and then January. Assuming that these are in
9 chronological order, it would be '19, 2019.

10 Q Well, let me ask you a couple of questions and
11 I think it will clear up what you were talking about.
12 You write, "Hey, Ted, just got off the phone with
13 Luke Cadigan. Spoke yesterday with Jenna also from
14 Cooley."

15 Who is Mr. Cadigan?

16 A Luke Cadigan, he is an attorney with Cooley
17 who's representing Kik.

18 Q In this litigation?

19 A That's correct.

20 Q And Jenna is here at the table, right?

21 A That's correct.

22 Q Also with Cooley?

23 A Yes.

24 Q Also representing Kik?

25 A To my knowledge, yes.

1 Q So is it fair to say that based on -- you
2 said -- your statement to Mr. Livingston was that you
3 just got off the phone with Mr. Cadigan and then the day
4 before with Jenna that it was from October the 29th of
5 2019?

6 A That's -- makes sense, yes.

7 Q What -- how long was your conversation with
8 Mr. Cadigan?

9 A Between one and two hours, roughly.

10 Q Okay. Was anyone else on the phone?

11 A I don't recall. Not from my end.

12 Q Okay. You don't know whether anyone was on
13 the phone with Mr. Cadigan?

14 A No.

15 Q What about --

16 A There may have been. I don't recall.

17 Q What about the call with Jenna, how -- how
18 long was that call?

19 A I do -- that was approximately the same
20 length, one to two hours, somewhere in there.

21 Q Okay. What -- what did you talk about with
22 Mr. Cadigan?

23 A Mr. Cadigan wanted to know about my experience
24 with Kik, how I had -- how I viewed Kik, a little bit
25 about the development of the app. And in the end,

1 whether or not I'd be interested in being a witness for
2 the defense.

3 Q Did you talk to Mr. Cadigan about the
4 litigation?

5 A No, I don't think so.

6 Q Okay. But he asked you if you would be a
7 witness for the defense?

8 A Yes.

9 Q Did you talk to Mr. Cadigan about the SEC's
10 complaint against Kik?

11 A To my knowledge, no.

12 Q Did you talk to Mr. Cadigan about the -- Kik's
13 answer to the complaint?

14 A No.

15 Q Have you independently read the SEC's
16 complaint against Kik?

17 A Yes.

18 Q Have you independently read Kik's answer to
19 the complaint?

20 A Yes.

21 Q Have you independently read other court
22 filings in the litigation?

23 A Yes.

24 Q Okay. What court -- to the extent you can
25 recall, what court filings have you read?

1 A To the extent that I can recall, I've read
2 everything I could get my hands on. Everything that's
3 been put online.

4 Q Okay. And why is that?

5 A Because I'm very interested in the outcome of
6 this case.

7 Q And why are you interested in the outcome of
8 this case?

9 A Because I'm a developer on the Kik
10 blockchain -- or the Kin blockchain and a lot is riding
11 on how this case plays out.

12 Q And you also have a significant position in
13 Kin, correct?

14 MS. BAILEY: Objection.

15 MR. SMITH: Objection.

16 A I do.

17 Q Your answer was you do?

18 A I do. Definition of "significant" being not
19 defined.

20 Q Okay. Well, I think your statement was you've
21 invested 25- to \$30,000?

22 MS. BAILEY: Objection.

23 A Yes.

24 Q Did Mr. Cadigan tell you what -- how you sort
25 of fit into Kik's defense of the litigation?

1 A No.

2 Q When you spoke to Jenna, what did you talk
3 about with her?

4 A Talked about my experience with Kin over the
5 last two years and everything that the Kin community has
6 gone through with the project and the development of my
7 app and my reasons for developing the app in the first
8 place, those sort of things.

9 Q Forgive me if I've asked this already: Did
10 you talk with either -- either attorney from Cooley --
11 scratch that. It was winding up to be a terrible
12 question.

13 So you spoke to Mr. Cadigan once. You spoke
14 to Jenna once. Have you spoken with either of them
15 again?

16 A Not until today when I spoke with Jenna just
17 to meet her for the first time.

18 Q When was that?

19 A This morning.

20 Q When did you guys meet?

21 A Just before the deposition.

22 Q Okay. And was this private or was this with
23 everybody else?

24 A With everyone else.

25 Q Okay. And had --

1 MR. SMITH: This was in the room, right?

2 MR. SCHLEGELMILCH: I'm sorry?

3 MR. SMITH: This was in the room.

4 BY MR. SCHLEGELMILCH:

5 Q Okay. Oh, here in the room?

6 A Yes.

7 Q Okay. Now I follow. Okay.

8 And have you spoken with any other Cooley
9 lawyers other than Mr. Cadigan and Jenna?

10 A No.

11 Q Have you spoken with anybody at Kik regarding
12 the litigation or your willingness to testify in the
13 litigation?

14 A No.

15 Q You wrote, "We talked at length about Kin and
16 Kik and about the actions of the SEC that brought us
17 here."

18 Do you see that -- I'm sorry, I'm back to the
19 exhibit. I should have --

20 A Okay.

21 Q You wrote, "We talked at length about Kin and
22 Kik and about the actions of the SEC that brought us
23 here."

24 A Yes.

25 Q What did you -- what did you mean by that?

1 A We talked about the path that Kin has been on,
2 recalling that Kik had been sold and that the basic
3 perception is that Kin is in an existential fight for
4 its life.

5 And that's what we talked about. We talked
6 about the situation that we're in. And, you know, the
7 offer was -- or the -- I was asked if I would be
8 interested in discussing Kin as a witness and I said,
9 "Absolutely, yes."

10 Q And you talked -- you wrote to Mr. Livingston
11 that you spoke to both attorneys about the actions of
12 the SEC that brought us here.

13 A Yes.

14 Q What is that referring to?

15 A The SEC -- to my understanding, the SEC has
16 brought suit against Kik Interactive.

17 Q And why has that "brought us here," what do
18 you mean by that?

19 A Into the lawsuit and to the point where Kin is
20 in an existential fight for its life.

21 Q I see. And you expressed an interest in
22 joining that existential fight for Kin's life; is that
23 correct?

24 MR. SMITH: Objection.

25 A If I have anything to add that could help the

1 process, I was eager and willing to help as a developer
2 but no real connection to Kin or to Kik personally,
3 myself.

4 Q Other than your investment?

5 MS. BAILEY: Objection.

6 MR. SMITH: Objection.

7 A Other than my purchase of Kin tokens.

8 Q Okay. Let me hand you what's been marked as
9 218.

10 (EXHIBIT 218 WAS MARKED.)

11 Q This is a portion of a Reddit thread that I
12 found on the Kin Foundation Reddit page. And Hiker2mtn,
13 that's you, correct?

14 A Yes.

15 Q And you wrote this, the -- I guess the gray
16 portion of this post?

17 A Okay.

18 Q That's a question. Did you write this?

19 A Yes.

20 Q Okay. You recall writing this?

21 A Yes.

22 Q Now, the topic at the top says, "Hackernoon
23 piece on Kik versus SEC." What is that, do you recall?

24 A There was an article on a blog called
25 Hackernoon.

1 Q Okay. And what was it about?

2 A About the Kik versus SEC litigation.

3 Q Okay. And I just want to ask you some
4 questions about some of the things that you wrote.

5 A Okay.

6 Q You wrote, "The SEC has a history. They
7 aren't pure benevolent actors in this."

8 Did you write that?

9 A Yes.

10 Q What did you mean by that?

11 A I don't believe that the SEC is a benevolent
12 actor in this. I think there was a political motive
13 behind the litigation.

14 Q What's the political motive?

15 A I don't know.

16 Q You have no idea why -- what's motivating the
17 litigation?

18 A I have opinions, but I don't have anything
19 based on fact.

20 Q Okay. What are your opinions?

21 A My opinion is that the SEC has chosen to
22 regulate through litigation versus issuing clear,
23 bright-line regulation that the average person can
24 follow. And I believe that there are both legislators
25 and possibly members of the SEC that are not in favor of

1 cryptocurrencies or see it as a threat to the government
2 or to the U.S. dollar, I'm not sure which.

3 Q Okay. But an -- as a result of that, you
4 think the SEC is not a purely benevolent actor; is that
5 correct?

6 MR. SMITH: Objection.

7 A That's my belief.

8 Q Okay.

9 MR. SMITH: Pure benevolent actor in this, in
10 this -- pure benevolent actors in this.

11 THE WITNESS: In this litigation.

12 BY MR. SCHLEGELMILCH:

13 Q Okay. And then in the next paragraph you
14 write, "This isn't anti-SEC comment because the SEC is
15 biased, flawed, and has a track record of pursuing
16 innocent people and organizations and knowing that they
17 are doing it at the same time."

18 Did you write that?

19 MR. SMITH: Sorry, I just want to make sure
20 the record is clear, it says, "This isn't an
21 anti-government."

22 MR. SCHLEGELMILCH: I'll read the whole
23 paragraph.

24 MR. SMITH: No, that's fine. I just wasn't
25 clear if "isn't" would be caught in this.

1 BY MR. SCHLEGELMILCH:

2 Q I'll read the whole paragraph. "This isn't an
3 anti-government comment, except in jest. This is an
4 anti-SEC comment because the SEC is biased, flawed, and
5 has a track record of pursuing innocent people and
6 organizations and knowing that they are doing it at the
7 same time."

8 Did you write that?

9 A Yes.

10 Q And is that consistent with your belief?

11 A Yes, it is.

12 Q Other than what we've already talked about,
13 what is it that you're referring to when you say that
14 the SEC is biased?

15 A In my opinion, based on reading I did before I
16 wrote this -- and I don't have a date on this. Do you
17 have a date for this?

18 Q So I can tell you that I printed it the week
19 of New Year's. And so it says five months ago, so it
20 was through the summer.

21 A Roughly last summer. There were comments on
22 social media and on the news. And I don't have exact
23 quotes. Chairman Clayton's comments about the
24 litigation or about the personalities involved in the
25 litigation were in social media, and looking back on SEC

1 policy of litigation through litigation -- regulation
2 through litigation versus issuing bright-line
3 regulation.

4 The statement that I made there is because I
5 have the opinion that it's easier to litigate than it is
6 to actually regulate. And I believe that the SEC has
7 made a decision to regulate through litigation. And I
8 don't believe that's in the best interests of technology
9 in the United States or of innovation in the
10 United States or in the government's best interest
11 overall.

12 There are a number of people that have --
13 reading the accounts of Mark Cuban and his interactions
14 with the SEC led me to believe that there's some biases
15 going on. And that's what I'm talking about there.

16 Q Okay. And maybe just to build on that, you
17 write that "the SEC has a track record of pursuing
18 innocent people and organizations and knowing they are
19 doing it at the same time." What is it that you're
20 referring to there?

21 A With organizations," I'm referring to Kik.

22 Q Okay. You said a track record. To my mind,
23 it implies more than one. Are there other instances
24 that you're referring to?

25 A I can't recall. I know that I've read about

1 others but I can't recall specific details.

2 Q Okay. And what -- when you said that the SEC
3 knows they are doing it at the same time, what is it
4 you're referring to there?

5 A Referring specifically to the Kin Foundation
6 and Kik is that the juxtapose position between -- with
7 cryptocurrencies, trying to apply, for instance, the
8 Howie test to cryptocurrencies, the stretch that is
9 required to make that work.

10 Looking at Kin and how it's obviously -- has
11 utility. It's obviously being used as a currency now.
12 Ethereum, bitcoin, any number of other cryptocurrencies,
13 even though they've had ICOs in the United States, some
14 of them, they haven't been -- they haven't been
15 targeted. They haven't been sued. And it leads me to
16 believe that there is an overarching reason why Kik was.

17 And I'm on the outside looking in. I am a
18 veracious reader, but I don't have any direct knowledge
19 of any of it. It feels like it's a bias process. It
20 feels like -- for the most part, one of the theories
21 that I had was that many cryptocurrencies aren't
22 connected to a company that can be attacked.

23 Kin was because it was connected to -- started
24 by Kik Interactive. That made Kik an easier target. I
25 know enough to know that the Kin Foundation has worked

1 hard to be aboveboard and worked within regulatory
2 frameworks where they could get them, where they could
3 find them. And that's the basis of my comments there.
4 It feels like an unfair process. And that's the genesis
5 of that.

6 Q Going -- going down a little bit, you wrote,
7 "The SEC has a history of lying and bullying innocent
8 parties to try to force a settlement and win." What is
9 it that you're referring to there?

10 A I've read many of Mark Cuban's writings and
11 spoken things about his interactions with the SEC, and
12 that's his accusation and that's where I got that.

13 Q Is there anything else other than Mark Cuban?

14 A No.

15 Q Hand you what's been marked as 219.

16 (EXHIBIT 219 WAS MARKED.)

17 Q This is another Reddit post that you wrote, is
18 it not?

19 A Yes.

20 Q And this came after Judge Hellerstein ruled on
21 a discovery issue between the parties, correct?

22 A Correct.

23 Q And you thought Judge Hellerstein got it
24 wrong?

25 MR. SMITH: Objection.

1 A That's my opinion, yes.

2 Q And you wrote I think in response to Judge
3 Hellerstein's order but you should tell me if I got it
4 wrong, that, "Having the government lie about you
5 doesn't matter." Did you write that?

6 A Where are we at?

7 Q It's in the first paragraph. You -- I'll --
8 it reads: "The reality is that being right doesn't mean
9 winning. Having the government lie about you doesn't
10 matter."

11 A I see it.

12 Q You wrote that?

13 A Yes.

14 Q And you thought that the government was lying?

15 A I think that based on my readings of the -- my
16 legal phraseology is escaping me. The SEC's writing,
17 their lawsuit against Kik, I think they --

18 Q The complaint?

19 A The complaint. That's the word I'm looking
20 for, thank you.

21 The complaint has some statements that are not
22 correct. And based on my knowledge of both Kin and the
23 Kin Foundation and what's been happening, and I felt
24 like some of those statements were not true, some of the
25 statements in their complaint are not true.

1 Q Okay. Based on -- or what -- what statements
2 in the complaint do you think are false or lies?

3 A If you can provide me with a copy of the
4 complaint, we can go through it.

5 Q Okay. I don't have it here but I can print it
6 out.

7 A I don't have it here either.

8 Q Okay. But you think that there are lies in
9 the complaint?

10 A I think there are some --

11 MR. SMITH: Objection.

12 MR. SCHLEGELMILCH: No, that's -- that's his
13 word.

14 Q You think that there are lies in the
15 complaint, correct?

16 MR. SMITH: Objection.

17 You can answer.

18 A I believe that there are statements -- there
19 are incorrect statements of fact.

20 Q Not lies?

21 A What's the difference? I don't understand the
22 legal difference between a lie and a material
23 misstatement of fact.

24 Q I'm trying to understand what you wrote --

25 A Yes.

1 Q -- when you wrote "having the government lie
2 about you doesn't matter." Who's the "you" in that
3 sentence?

4 A Well, I'm making a point that I believe that
5 some of the government's assertions in the SEC
6 complaint are untrue. And I believe that they are
7 demonstrably untrue and I believe that the SEC knew it
8 when they were written.

9 Q Okay. Sitting here today --

10 A Yes.

11 Q -- is there anything in the complaint that you
12 can identify as a lie?

13 A Not without going through the complaint again.

14 Q Can you tell me the general topic of things in
15 the complaint that you think are lies?

16 A I hesitate to do that without the information
17 in front of me.

18 Q You can't even provide me with a broad -- or
19 just a broad description of what the topics are that you
20 think the SEC lied about in the complaint?

21 MR. SMITH: Objection.

22 A No, I can't without review of the documents
23 itself.

24 Q Not a single lie? Without looking at the
25 complaint, you can't identify a single lie sitting here

1 today?

2 MR. SMITH: Objection.

3 A I can't without reviewing the paperwork.

4 Q Okay. And your determination that certain
5 things in the complaint are a lie are based on what,
6 on -- based on what, in contrast to what?

7 MR. SMITH: Objection.

8 A Again, if we want to go and pull the complaint
9 out, I'm happy to go through it with you and talk about
10 what I was talking about. I don't feel comfortable
11 trying to draw from a document of that size from memory.

12 (EXHIBIT 220 WAS MARKED.)

13 Q Okay. Oh, here we go. Here it is. This is a
14 more -- if you look, the first post is not by you, it's
15 by somebody named Raketenerie. I don't know who -- do
16 you know who that person is?

17 A Just by Reddit handle.

18 Q Okay. And then you write a series of
19 responses, correct?

20 A Yes.

21 Q And those are yours, you wrote those?

22 A Yes, that's correct.

23 Q The ones that come under Hiker2mtn?

24 A Yes.

25 Q And this was -- this was in December of 2019,

1 was it not?

2 A I am looking for a date. I'm not seeing a
3 date.

4 Q Okay. Well, it's -- I worked on it before I
5 left for Christmas break, three days -- so -- well, let
6 me ask a better question because who cares when I
7 printed it out.

8 Do you recall when you wrote this?

9 A Specifically, no. I know that I did write it,
10 but I don't know when.

11 Q Okay.

12 A The KRE in -- the KRE has been something I've
13 talked about many times and as is the price of Kin
14 declining.

15 Q If you look on the second page of this
16 exhibit, you write, "Remember, Kin is not the only coin
17 that dropped today."

18 Do you see where I am?

19 A Yes.

20 Q "Kin is fighting a legal battle, however, and
21 there really -- there will really be no rally until the
22 oppressive boot of the U.S. government is removed from
23 its throat."

24 Do you see that?

25 A Yes.

1 Q Did you write that?

2 A Yes.

3 Q And you believe that the -- is that the --
4 when you say "the US government," are you referring to
5 the SEC?

6 A I am.

7 Q And that the SEC has an oppressive boot on
8 Kik's throat?

9 MR. SMITH: Objection.

10 A It's a hyperbolic literary term, but, yes.

11 Q And later in the thread closer to the bottom
12 of the next page -- or the bottom of this page, sorry,
13 you wrote that, "We are adversaries at war." Do you see
14 where -- see where that's from?

15 A I'm looking for it. I see it.

16 Q Do you believe that you are at war with the
17 SEC?

18 MR. SMITH: Objection.

19 A I believe that Kin is in a legal battle with
20 the SEC.

21 Q Okay. But you wrote "we." The way I would
22 read that is including you.

23 A As a member of the Kin community, I feel like
24 I have a stake in the outcome of it, yes.

25 Q And as a result of that, you feel like you and

1 the balance of the Kin community are at war with the
2 SEC?

3 MR. SMITH: Objection.

4 A In a legal battle, yes. In a legal sense,
5 our -- the project that we care deeply about is being
6 attacked, yes.

7 Q Okay. If you look at the next page, the last
8 paragraph on that page, actually, the last sentence on
9 the second page -- on the third page of the exhibit.
10 You wrote, "But the SEC has removed speculative interest
11 in Kin. And until the SEC is dealt with, it will not
12 return."

13 Do you see that?

14 A Yes.

15 Q And you wrote that?

16 A I did.

17 Q And so is it your position that the SEC needs
18 to be defeated in the litigation so that speculative
19 investment in Kin can return?

20 MR. SMITH: Objection.

21 A No, that's not my assertion there. The
22 situation, the lawsuit needs to be dealt with, whether
23 it be a win, a loss, a settlement, or some other method.
24 But the reason why speculative interest has left is
25 because of the uncertainty that this legal action has

1 brought.

2 Q And so when the SEC litigation is over, it's
3 your view that speculative interest will return?

4 MR. SMITH: Objection.

5 A I believe so.

6 (EXHIBIT 221 WAS MARKED.)

7 Q Handing you 221. Just take a minute to look
8 at it, but if you --

9 A Thank you.

10 Q You can return that this is -- if you can
11 confirm that this is another Reddit thread that you
12 participated in.

13 A Yes.

14 Q And, in fact, the last sentence on the page
15 you wrote, "Speculative demand will return when the boot
16 of the SEC has been removed from the throat of
17 Kik Interactive and the Kin Foundation"; is that
18 correct?

19 A Yes.

20 Q And that's your belief?

21 A Yes.

22 Q And speculative demand returning will cause
23 the unit price of Kin to increase, correct?

24 MR. SMITH: Objection.

25 A It is one of the things, yes.

1 Q Hand you what's been marked as 222.

2 (EXHIBIT 222 WAS MARKED.)

3 Q This is a post from your Twitter account, is
4 it not?

5 A Yes.

6 Q And on June the 19th of 2019 you wrote, Hey
7 @Tylerwinklevoss and Cameron Winklevoss, meet at
8 Ted Livingston. "All y'all were screwed by the SEC and
9 by Zuck. Perhaps you should consider joining forces
10 against these two existential threats to crypto."

11 Did you write that?

12 A I did.

13 Q Okay. And it's your view that Ted Livingston
14 was screwed by the SEC?

15 MR. SMITH: Objection.

16 A I believe that the lawsuit is unjust.

17 Q And you wrote -- but you wrote that he got
18 screwed by the SEC?

19 A Yes.

20 Q And I don't know -- do you know richie.exe?

21 A Not personally, no.

22 Q Okay. But that is a fantastic, whatever that
23 is.

24 A Well, twin Schwarzeneggers, to my, you know,
25 comment on the Winklevoss twins.

1 Q Oh, I know why it's there, but it's great.

2 A It's pretty good.

3 MR. SCHLEGELMILCH: Okay. So would everyone
4 mind if I -- if we went off the record for five minutes
5 and I can just look at my notes and see if we're either
6 done or very close to done?

7 MR. SMITH: Of course.

8 MR. SCHLEGELMILCH: We can go off the record.

9 VIDEOGRAPHER: We are off the record. The
10 time is approximately 1:38 p.m.

11 (Recess.)

12 VIDEOGRAPHER: We are back on the record. The
13 time is approximately 1:45 p.m.

14 Q (BY MR. SCHLEGELMILCH) Could you take a look
15 at Exhibit 219 that's in the stack in front of you?
16 Right there.

17 A Yes.

18 Q There we go. I have one additional question
19 about that exhibit.

20 So you do recall -- correct me if you don't,
21 if I get this -- I mean, this is wrong.

22 You do recall that you wrote this?

23 A Yes.

24 Q Do you recall that you put it on Reddit?

25 A Yes.

1 Q And you do recall that it was about the same
2 time as one of the Court's rulings on a discovery issue?

3 A I don't have a date here and I'm trying to
4 look at it here and figure out exactly what I'm talking
5 about. Okay. Ask me your question again, please.

6 Q Sure. You do -- let me ask a more general
7 question because I'm mostly just trying to get you sort
8 of referenced in time here. This was in response to a
9 ruling the judge made in --

10 A Okay.

11 Q In the Kik litigation?

12 A Right.

13 Q Do you recall deleting this post?

14 A No, I don't. Did I? I might have.

15 MR. SMITH: Don't ask questions.

16 Q Is it a possibility that you deleted this
17 post?

18 MR. SMITH: Objection.

19 Q You said you might have. What did you mean by
20 that?

21 A I don't have a recollection of deleting it,
22 but it is possible.

23 Q Okay. Does Mr. Rickoy, Kevin from Kin, the
24 moderator or the curator for the thread, does he have
25 the ability to delete posts?

1 A I do not know.

2 Q Earlier today we talked about two telephone
3 conversations that you had with Kik's lawyers, the
4 Ms. Bailey and Mr. Cadigan. Do you recall that?

5 A Yes.

6 Q Do you have an understanding for how they got
7 your contact information?

8 A Per my recollection, which is flawed of
9 course, it's my understanding that -- and I believe it
10 was Kevin Rickoy asked me if I would be interested in --
11 or willing to speak with some of the attorneys in the
12 case, and I said yes. And I was asked for a method of
13 contact. I believe it was Kevin. It may have been
14 Chase Barker. I don't recall, to be honest with you.

15 Q And how did Mr. Barker or Mr. Rickoy pose that
16 question to you, like, what -- was it by email, by text?

17 A Probably by text, I would guess.

18 Q Text on --

19 A A PM on Reddit, most probably.

20 Q I didn't -- I didn't see it on any of the
21 threads that we marked and those are the only three
22 threads that you produced. Are there -- is there
23 another thread?

24 A It's entirely possible that I missed one, but
25 I'm -- I could go back and look, but I don't --

1 Q I'll ask your counsel if he could do that.

2 A Yes, sure.

3 MR. SMITH: Sure.

4 A I'd be happy to.

5 Q Do you think that either Mr. Barker or
6 Mr. Rickoy posed a question to you via Reddit private
7 message?

8 A I believe so, yes.

9 Q And then what contact information -- I don't
10 want the actual contact information but what medium of
11 contact information did you provide to them?

12 A A telephone number.

13 Q Okay. So Mr. Cadigan and Ms. Bailey
14 telephoned you on your cell phone?

15 MR. SMITH: Objection.

16 A Most probably on our home phone --

17 Q Okay.

18 A -- because we don't have good cell reception
19 at my house.

20 Q Gotcha. And then have you ever corresponded
21 with Mr. Cadigan or Ms. Bailey by email?

22 A No.

23 Q Have you ever corresponded with either of
24 those two or any of Kik's lawyers by email?

25 A No.

1 Q Have you ever corresponded with them via text?

2 A No, not to my knowledge.

3 Q Have you ever corresponded with them in
4 writing in any way?

5 A Not to my knowledge.

6 Q I am not asking for the substance of your
7 communication with your lawyer, I'm just -- and he
8 should step in and shut down anything that he thinks is
9 over the line, but how did you prepare for today's
10 deposition?

11 A I had a discussion with my lawyer yesterday by
12 telephone.

13 Q I don't want to know what you talked about.
14 About how long?

15 A Hour and a half.

16 Q Okay. And prior to the conversation on the
17 telephone, have you -- did you do anything else to
18 prepare?

19 A He also sent me a ZIP file with a number of my
20 submissions --

21 MR. SMITH: Just say a ZIP file with some
22 documents.

23 THE WITNESS: A ZIP file with some documents.

24 BY MR. SCHLEGELMILCH:

25 Q And I presume you looked them over?

1 A I did.

2 Q Okay. And I think we've asked this before.

3 Did you meet with any of Kik's lawyers to get ready for
4 today?

5 A No.

6 Q Do you know whether they provided any records
7 to you to review?

8 MR. SMITH: Objection.

9 A They did not.

10 MR. SMITH: So he means directly to you,
11 right?

12 THE WITNESS: Yes. That's my understanding as
13 to the question.

14 MR. SCHLEGELMILCH: Thank you. That was my
15 question.

16 Subject to redirect, I have nothing further.

17 MS. BAILEY: I have nothing.

18 MR. SCHLEGELMILCH: What was that?

19 MS. BAILEY: I have nothing, sorry.

20 MR. SCHLEGELMILCH: Okay. I was disappointed.
21 I was going to see how you did.

22 THE WITNESS: We could exchange coughing fits
23 over here.

24 MR. SMITH: So I just have a couple of
25 questions.

1 MR. SCHLEGELMILCH: Oh, of course. Yeah,
2 yeah. Oh, yeah, I should have asked you as well.

3 MR. SMITH: No, that's okay.

4 EXAMINATION

5 BY MR. SMITH:

6 Q Just to -- I just want to sort of put a pin in
7 some of this stuff and then I think Mr. Schlegelmilch
8 just covered it. But the Reddit posts we've gone over
9 today, especially sort of towards the tail end of the
10 deposition, did anyone at Kik or Kin ask you to write
11 those posts?

12 A No.

13 Q Or did anyone at Kik or Kin or anyone else
14 tell you what to write in those posts?

15 A No.

16 Q Were those posts based on your own opinion and
17 your own analysis of the facts that you've seen in the
18 public record?

19 A Yes.

20 Q Are you privy to any inside information from
21 Kik or Kin -- inside information, to your knowledge,
22 from Kik or Kin about their strategy in the lawsuit or
23 what they see as the merits of the lawsuit or anything
24 like that?

25 A No.

1 Q Are you a lawyer?

2 A No.

3 Q So you essentially are reviewing the -- what
4 is available to you about the litigation online in a
5 variety of forms and is that the source of your opinion
6 here?

7 A It is.

8 Q On the litigation itself anyway?

9 A It is.

10 Q And I think it's fairly obvious, but you --
11 you know, you have -- you side with Kik Interactive in
12 the lawsuit against the SEC; is that fair to say?

13 A I do.

14 Q And is that based in part on the fact you have
15 an app on the platform and some financial interest in
16 the --

17 A Absolutely.

18 Q -- in Kin?

19 Okay. Is it based on anything else?

20 A No. Other than a sense of right and wrong.

21 Q What do you mean by that?

22 A My belief is that the lawsuit is -- that the
23 SEC has brought is counterproductive in a number of
24 ways, looking at a macro view. It stifles innovation
25 and it deters innovators from even existing in the

1 United States.

2 And it's my hope that there will be a change
3 and that litigation can be set aside for regulation,
4 commonsense regulation that people can follow. It's
5 important, I think, for the future of the industry, the
6 future of innovation in the United States.

7 Q Thank you. Were you finished? I didn't mean
8 to cut you off.

9 A I was finished.

10 Q And just, again, to be clear: You weren't
11 being compensated by anyone or any entity for these
12 Reddit posts that you've -- that you posted correct?

13 A Correct. Not at all.

14 Q And you're not also seeking compensation for
15 your time coming here today?

16 A No.

17 Q Other than having the SEC pay for your airline
18 flight and I guess I paid for your lunch?

19 A Yes. And thank you for both.

20 Q You're welcome.

21 MR. SMITH: No further questions.

22 THE WITNESS: I'd love to get on another
23 airplane.

24 MR. SCHLEGELMILCH: I have nothing based on
25 that.

1 VIDEOGRAPHER: This concludes the videotaped
2 deposition of James Weatherman. We are off the record.
3 The time is approximately 1:53 p.m.

4 MR. SMITH: Read and sign.

5 MS. BAILEY: A copy.

6 (Concluded at 1:53 p.m.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF WITNESS

I, JAMES WEATHERMAN, do hereby declare under penalty of perjury that I have read the entire foregoing transcript of my deposition testimony, or the same has been read to me, and certify that it is a true, correct and complete transcript of my testimony given on January 7, 2020, save and except for changes and/or corrections, if any, as indicated by me on the attached Errata Sheet, with the understanding that I offer these changes and/or corrections as if still under oath.

_____ I have made corrections to my deposition.

_____ I have NOT made any changes to my deposition.

Signed _____
JAMES WEATHERMAN

Dated this _____ day of _____ of 20____.

Sworn to and Subscribed before me,
this _____ day of _____, 20____.

Notary Public My commission expires: _____

REPORTER'S CERTIFICATE

STATE OF UTAH)

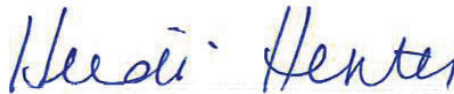
COUNTY OF SALT LAKE)

I, Heidi Hunter, RPR, CCR, for the state
of Utah.

That the foregoing proceedings were taken
before me at the time and place set forth in the
caption hereof; that the witness was placed under
oath to tell the truth, the whole truth, and nothing
but the truth.

That I thereafter transcribed my said
shorthand notes into typing and that the typewritten
transcript of said deposition is a complete, true
and accurate transcription of my said shorthand
notes taken at said time.

I further certify that I am not a relative
employee, attorney, or counsel of any of the parties
nor am I a relative or employee of any of the
parties' attorney or counsel connected with the
action, nor am I financially interested in the
action.



Heidi Hunter, RPR, CCR**Date: January 14, 2020**

ERRATA SHEET

Deposition of: JAMES WEATHERMAN
 Date taken: January 7, 2020
 Case: SEC v. KIK INTERACTIVE INC.

PAGE LINE

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

CHANGE: _____
 REASON: _____

Signed _____
 Dated _____